The Council Agenda Memo has been revised from what was posted prior to the 6/13/2013 meeting to address questions raised by Council members during the 6/12/2013 work session. This is the version voted on by the Council on 6/13/2013. No changes were made to the preamble or rule text from what was originally posted.

Department of State Health Services
Council Agenda Memo for State Health Services Council
June 12 - 13, 2013

Agenda Item Title: Repeal of rules and new rules concerning mental health rehabilitative services

Agenda Number: 5.c

Recommended Council Action:

_____For Discussion Only

___X_For Discussion and Action by the Council

Background: The Mental Health and Substance Abuse (MHSA) Division, Program Services Section develops and implements programs concerning the provision of mental health community services. The Division develops standards to ensure that the 37 local mental health authorities (LMHAs) and one managed care organization (MCO) that contract directly with DSHS provide appropriate, adequate mental health services to the citizens of Texas.

Mental health rehabilitative services in this chapter are a subset of overall mental health services and include the following types of services: face-to-face crisis intervention services, medication training and support services, psychosocial rehabilitative services, skills training and development services, and day programs for acute needs. Psychosocial rehabilitative services and day programs for acute needs are only available to adults. The other services are available to adults, children, and adolescents. These services may be provided by paraprofessionals.

In FY 2012, LMHAs served 112,709 adults and 30,436 children (excluding the NorthSTAR service area). Funding for community services comes from the Mental Health Block Grant, General Revenue, and third-party payers such as Medicare, Medicaid, and private insurance.

Summary: Skills Training and Development as well as Psychosocial Rehabilitative Services primarily impart life skills to individuals through an experiential face-to-face interaction in community based settings. These services:

- assist individuals restoring life skills functioning lost as result of a mental illness;
- are primarily provided by staff members who have a bachelor's degree (QMHPs) and meet the DSHS's credentialing standard as a peer provider or certified family partner (paraprofessionals) or QMHP; and
- often model behavior in real life settings (in vivo) giving the individual an opportunity to practice the skills in real world settings (at school, in the workplace, while shopping, while engaged in job finding, etc.).

Additionally, Crisis Intervention Services address the needs of an individual who may be experiencing a crisis by assisting the individual in deescalating to the point where more restrictive or intensive services become unnecessary. These crisis services occur through face-to-face intervention and may be provided by paraprofessionals.

Day Programs for Acute Needs provide individuals experiencing acute symptoms of mental illness with a safe, supervised environment where they and other individuals can receive guidance and assistance in a larger group setting that will assist them to stabilize the symptoms and prevent admission to a more restrictive treatment setting.

Training and Support Services provide education and guidance relating to the nature of mental illness, including understanding the concepts of recovery and resilience within the context of mental illness as well as medications and their side effects are often discussed in group settings using departmentally approved curricula to guide group discussion. Individual support and education in these areas can also be provided one on one when it is considered to be appropriate.

All of these services are distinct from services that are delivered by licensed professionals, such as prescribing medications, therapeutic counseling or psychotherapy.

The purpose of the repeal and new rules is to implement amendments to the Medicaid State Plan. The amendments make group skills training a Medicaid billable service for children and adolescents, add certified family partners (CFPs) as a provider type, and set forth the minimum credentialing and supervision requirements for CFPs. Expanding the role of CFPs to provide rehabilitative services increases the LMHAs' options for Medicaid reimbursement, expands the workforce, and benefits families and individuals receiving services through persons with experience navigating the child-service system.

CFPs are experienced, trained parents or legally authorized representatives of a child or adolescent with a serious emotional disturbance who are instrumental in engaging families in services. Specific services may include: providing peer mentoring and support to the primary caregivers; introducing the family to the treatment process; modeling self-advocacy skills; providing information, referral and non-clinical skills training; assisting in the identification of natural/non-traditional and community support systems; and documenting the provision of all CFP services. CFPs do not provide direct services to the Medicaid-eligible child, but rather to the primary caregivers of the child, parents, or legally authorized representatives.

Key Health Measures: The new rules seek to improve outcomes for individuals with mental illness or serious emotional disturbance by defining minimum competencies for staff and providing minimum standards for assessing and providing rehabilitative services to these populations. Contracts hold providers to targets related to performance and improved outcomes overall. While there are no targets specific to rehabilitative services, there are targets based on areas related to overall quality of life improvement. The following table shows some of these measures and baseline targets.

Mental Health Performance Assessment
Fiscal Year 2013, 1st Quarter - Specific Measures

Measures	Adult Target	Adult Actual	Child Target	Child Actual
School Behavior-- children with an improved score	N/A	N/A	>=71%	64.9%
Housing-- adults with an improved score	>=72%	73.6%	N/A	N/A
Co-occurring Substance Use-- percent of consumers with an improved score	>=87%	82.7%	>=87%	84.8%
Crisis Avoidance-- consumers who experienced a crisis	<=2.3%	2.13%	<=1.7%	1.49%
Received Services Within 14 Days of Assessment-- consumers recommended and authorized for services	>=70%	82%	>=65%	79%

DSHS and LMHA staff monitor outcomes quarterly and review them annually. If remedies or sanctions are necessary because of less than optimal outcomes, they are waged annually.

Summary of Input from Stakeholder Groups: The rules were drafted by a cross-functional workgroup that included DSHS staff and representatives from Via Hope of Austin. The draft rules were distributed for comment via email in April 2012 to the Texas Council of Community MHMR Centers; LMHAs; Disability Rights Texas; Council for Advising and Planning for the Prevention and Treatment of Mental and Substance Use Disorders; Local Area Network Advisory Committee; and MHSA program staff. Substantive comments and responses include the following.

- Broaden the definition of advanced practice registered nurse to include licensed practice nurses and registered nurses because of the current nursing shortage. DSHS declined to revise the definition because an advanced practice registered nurse is authorized to determine medical necessity by being designated as a licensed practitioner of the healing arts. Neither a licensed practical nurse nor a registered nurse meet the criteria for being designated as a licensed practitioner of the healing arts.

- Clarify the definition of a CFP to require one year of lived experience, as a parent or legally authorized representative, in raising a child with serious emotional disturbance or serious mental illness. DSHS added the requirement to the definition.

- Revise the definition of crisis to require the crisis to be "because of a mental health condition." DSHS declined to narrow the scope of the definition. When crisis redesign was funded, DSHS agreed to provide crisis services to the broader population and LMHAs each receive a portion of the $82 million dollars general revenue allocation to provide crisis services in this population. The revised definition is consistent with the same term defined in Chapter 412, Subchapter G, concerning Mental Health Community Services Standards.

- Designate physician assistants as licensed practitioners of the healing arts. DSHS is reviewing the applicable licensing to determine whether it is possible.

- Allow skills training and some other rehabilitative services to be provided through electronic media rather than face-to-face, billing the service to Medicaid under new rules of the Health and Human Services Commission. DSHS declines to make the change because the agency believes billing Medicaid under telehealth would seriously erode the current rate for providing Medicaid rehabilitative services. Rehabilitative services are most effective when provided in person by a qualified mental health professional.

Proposed Motion:

Motion to recommend HHSC approval for publication of rules contained in agenda item **#5.c.**

Approved by Assistant Commissioner/Director:		/s/maples		**Date:**	5/17/2013
Presenter:	Lauren Lacefield-Lewis	**Program:**	MHSA-Program Services	**Phone No.:**	512-206-5103
Approved by CCEA:	Carolyn Bivens			**Date:**	5/9/13

TITLE 25. HEALTH SERVICES
PART 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 419. Mental Health Services--Medicaid State Operating Agency Responsibilities
Subchapter L. Mental Health Rehabilitative Services
Repeals §§419.451 – 419.459, 419.461 - 419.470
Chapter 416. Mental Health Community-based Services
Subchapter A. Mental Health Rehabilitative Services
New §§416.1 - 416.17

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §§419.451 – 419.459, 419.461 - 419.470 and new §§416.1 - 416.17, concerning mental health rehabilitative services.

BACKGROUND AND PURPOSE

The repeal and new sections stipulate the requirements for providing mental health (MH) rehabilitative services. In addition, the proposed subchapter addresses the requirement in Health and Safety Code, §533.0354, that the provision of mental health services for adults with bipolar disorder, schizophrenia, or clinically severe depression, and for children with serious emotional illnesses be accomplished using disease management practices.

The requirements for providing MH rehabilitative services described in the proposed subchapter are based on the department's mental health service delivery system and the Medicaid State Plan. This model promotes the uniform provision of services that are based on clinical evidence and recognized best practices. In addition, the model promotes effective mental health rehabilitative services by utilizing person-specific information that identifies an individual's mental health care needs, matches those needs to a particular type(s) of rehabilitative service, and evaluates the effectiveness of the service provided.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 419.451 - 419.470 have been reviewed and the department has determined that reasons continue to exist for readopting some of the sections because rules on this subject are needed as more particularly described in the section-by-section summary.

SECTION-BY-SECTION SUMMARY

The repeal of §§419.451 – 419.459, 419.461 - 419.470 allows update to the rules concerning mental health rehabilitative services and placement in a new chapter for better correlation within the Texas Administrative Code.

Throughout the subchapter, the term "treatment plan" is replaced with "recovery plan" and the term "severe mental illness" is replaced with "serious mental illness."

Section 416.1 sets forth the purpose of the subchapter and adds the following list of services, which comprise MH rehabilitative services, to include crisis intervention services; medication training and support services; psychosocial rehabilitative services; skills training and development services; and day programs for acute needs to promote clarity.

New §416.2 sets forth the subchapter's application to providers of MH rehabilitative services and adds language clarifying that the subchapter applies to MH rehabilitative services funded through Medicaid or a general revenue contract with the department.

New §416.3 revises, adds, and deletes definitions that are used in the subchapter. Definitions that are proposed for readoption are the terms "adolescent," "adult," "business day," "CFR," "child," "day," "individual," "in-vivo," " Medicaid provider," "nursing services," "physician," "primary caregiver," "problem-solving," "QMHP or qualified mental health professional," and "therapeutic team."

Revised or new definitions for terms that are included are "APRN or advanced practice registered nurse," "authorization period," "CFP or certified family partner," "crisis," "CSSP or community services specialist," "CSU or crisis stabilization unit," "department," "direct clinical supervision," "face-to-face," "group," "health risk factors," "IMD or institution for mental diseases," "LAR or legally authorized representative," "LMFT or licensed marriage and family therapist," "licensed medical staff member," "LPC or licensed professional counselor," "LOC or level of care," "LPHA or licensed practitioner of the healing arts," "LVN or licensed vocational nurse," "mental health (MH) rehabilitative services," "medical necessity or medically necessary," "mental health disorder," "on-site," "PA or physician assistant," "peer provider," "pharmacist," "provider," "psychologist," "recovery," "recovery plan or treatment plan," "resilience," "RN or registered nurse," "SED or serious emotional disturbance," "serious mental illness," "staff member," "uniform assessment," and "utilization management guidelines."

Definitions for the terms "master's level professional" and "mental illness" are not being proposed and have been deleted.

New §416.4 consistent with contract requirements adds experience and training requirements for staff members who provide supervision and oversight for staff members and subcontractors who provide MH rehabilitative services, including CFPs. Prohibitions against discrimination and retaliation are revised to include when services are denied and adds sexual orientation to the list of characteristics.

New §416.5 adds clarifying language concerning the eligibility requirements for receiving MH rehabilitative services medical necessity and services provided under arrangement.

New §416.6 updates references within this section, adds the requirement that an LPHA must determine and document medical necessity.

New §416.7 sets forth the standards for providing crisis intervention services, updates references within this section, and adds minor clarifying language.

New §416.8 sets forth the standards for medication training and support services within the context of resilience and disease management; updates the reference to the department's approved patient and family education materials that are available on the department's Internet web site; and adds the guidance that an individual understand the concepts of recovery and resilience within the context of serious mental illness. Under conditions, language clarifying eligible adults and their LARs may receive this service and that these services may be provided individually or in a group; and allows certified family partners (CFPs) to provide this service.

New §416.9 sets forth the standards for psychosocial rehabilitative services; adds language to clarify that behavioral and cognitive interventions provided by the therapeutic team build on strengths and focus on restoring the individual's ability to develop and maintain relationships; and adds clarifying language to housing related and medication related services.

New §416.10 sets forth the standards for skills training and development services; clarifies that the LAR on behalf of an adult may receive these services; adds that these services may be used to increase the LAR's or primary caregiver's understanding of and ability to respond to the individual's needs identified in the uniform assessment or documented in the recovery plan; and allows CFPs to provide these services.

New §416.11 sets forth the standards for day programs for acute needs.

New §416.12 sets forth documentation requirements; adds that documentation must include the goal or objective addressed, modality, and method used to provide services; adds signature and credential notation requirements for CFPs; add documentation required by the department approved curricula, protocol, or practice use to provide services; and adds that the outcome of any service provided must be documented; adds language to clarify that an licensed practitioner of the healing arts must document medical necessity.

New §416.13 sets forth the standards for staff member training and adds competency standards. The section is rewritten to include training requirements specific to providing rehabilitative services and general training requirements that are also in Chapter 412, Subchapter G, Mental Health Community Services Standards are deleted.

New §416.14 sets forth the criteria for billable and non-billable activities. Under billable activities, the section adds that under certain circumstances services provided to an LAR, on behalf of a Medicaid-eligible adult, may be Medicaid reimbursable and that under certain circumstances services provided to an LAR or primary caregiver, on behalf of a Medicaid-eligible child or adolescent, may be Medicaid reimbursable. Under non-billable activities, the section adds that rehabilitative services provided via electronic media and crisis services provided to individuals who do not have a serious mental illness are not Medicaid reimbursable.

New §416.15 sets forth the Medicaid provider participation requirements.

New §416.16 describes the processes for fair hearings and reviews. The section adds a notification requirement that any individual who has not applied for or who is not eligible for

Medicaid whose request for services is not acted upon with reasonable promptness, or whose MH rehabilitative services have been terminated, suspended, or reduced have a right to a review and appeal in accordance with department rules.

New §416.17 revises the list of guidelines that are referenced in the subchapter and adds Internet addresses to provide online access.

FISCAL NOTE

Mike Maples, Assistant Commissioner for Mental Health and Substance Abuse Services, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Maples has also determined that the proposed rules will have no adverse economic impact on small businesses or micro-businesses. This was determined by interpretation that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections.

The rules have direct application only to local mental health authorities, none of which meet the definition of small or micro-business under the Government Code, §2006.001. Therefore, an economic impact statement and regulatory flexibility analysis for small businesses are not required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There is no anticipated economic cost to persons required to comply with the sections as proposed. There is no anticipated impact on local employment.

PUBLIC BENEFIT

In addition, Mr. Maples has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to provide local mental health authorities with standards for providing rehabilitative services that are consistent with the Medicaid State Plan and resilience and recovery practices.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety

of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed repeals and new rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Janet Fletcher, Adult Mental Health Program Services, Department of State Health Services, Mail Code 2018, P.O. Box, Austin, Texas 78714-9347, telephone (512) 467-5425 or by email to MHSArules@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The repeals and new sections are authorized by Health and Safety Code, §533.0345, which requires the department to develop standards of care for the services provided by local mental health authorities; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. Review of the sections implements Government Code, §2001.039.

The repeals and new sections affect Government Code, §531.0055; and Health and Safety Code, §534.053, §534.058, and §1001.075.

Sections for repeal.

§419.451. Purpose.
§419.452. Application.
§419.453. Definitions.
§419.454. General Requirements for Providers of MH Rehabilitative Services.
§419.455. Eligibility.
§419.456. Service Authorization and Treatment Plan.
§419.457. Crisis Intervention Services.
§419.458. Medication Training and Support Services.
§419.459. Psychosocial Rehabilitative Services.

Legend: (Proposed New Rules)
Regular Print - Proposed new language

§416.1. Purpose.

The purpose of this subchapter is to describe the requirements for providing mental health (MH) rehabilitative services that includes the following:

(1) crisis intervention services;

(2) medication training and support services;

(3) psychosocial rehabilitative services;

(4) skills training and development services; and

(5) day programs for acute needs.

§416.2. Application.

This subchapter applies to providers of MH rehabilitative services funded through Medicaid, or a general revenue contract with the department.

§416.3. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Adolescent--An individual who is at least 13 years of age, but younger than 18 years of age.

(2) Adult--An individual who is 18 years of age or older.

(3) APRN or Advanced practice registered nurse--A staff member who is a registered nurse approved by the Texas Board of Nursing as a clinical nurse specialist in psychiatric/mental health or nurse practitioner in psychiatric/mental health, in accordance with Texas Occupations Code, Chapter 301. The term is synonymous with "advanced nurse practitioner."

(4) Authorization period--The duration for which the provider has obtained authorization in accordance with §416.6(a) of this title (relating to Service Authorization and Recovery Plan).

(5) Business day--Any day except a Saturday, Sunday, or legal holiday listed in Texas Government Code, §662.021.

(6) CFP or Certified family partner--A person who:

(A) is 18 years of age or older;

(B) has received:

(i) a high school diploma; or

(ii) a high school equivalency certificate issued in accordance with the laws applicable to the issuing agency;

(C) has at least one year of lived experience raising a child or adolescent with an emotional or mental health issues as a parent or LAR;

(D) has at least one year of experience navigating a child-service system (e.g., mental health, juvenile justice, social security, or special education) as a parent or LAR; and

(E) has successfully completed the certified family partner (CFP) training and passed the certification examination recognized by the department.

(7) CFR--The Code of Federal Regulations.

(8) Child--An individual who is at least three years of age, but younger than 13 years of age.

(9) Crisis--A situation in which:

(A) an individual presents an immediate danger to self or others;

(B) an individual's mental or physical health is at risk of serious deterioration; or

(C) an individual believes that he or she presents an immediate danger to self or others or that his or her mental or physical health is at risk of serious deterioration.

(10) CSSP or community services specialist--A staff member who, as of August 30, 2004:

(A) received:

(i) a high school diploma; or

(ii) a high school equivalency certificate issued in accordance with the law of the issuing state;

(B) has had three continuous years of documented full-time experience in the provision of MH rehabilitative services; and

(C) has demonstrated competency in the provision and documentation of MH rehabilitative services in accordance with this subchapter and the MH Rehabilitative Services Billing Guidelines.

(11) CSU or crisis stabilization unit--A crisis stabilization unit licensed under the Texas Health and Safety Code, Chapter 577; and Chapter 134 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units).

(12) Day--Calendar day, unless otherwise specified.

(13) Department--The Department of State Health Services.

(14) Direct clinical supervision--An LPHA's or QMHP's interaction with a staff member who delivers MH rehabilitative services to ensure that MH rehabilitative services are clinically appropriate and in compliance with this subchapter by:

(A) conducting a documented meeting with the staff member at regularly scheduled intervals; and

(B) conducting documented observations of the staff member providing MH rehabilitative services at a frequency determined by the supervisor based on the staff member's skill level.

(15) Face-to-face--A contact with an individual that occurs within the physical presence of another person. Face-to-face does not include contacts made through the use of electronic media.

(16) Group--A face-to-face service delivery modality involving at least one staff member and:

(A) two to eight adults; or

(B) two to six children or adolescents and may include their LARs or primary caregivers, which do not count toward the group size limit.

(17) Health risk factors--Circumstances that contribute to the premature death and disabling chronic diseases such as heart disease, diabetes and cancers. They include, but are not limited to, substance abuse or addiction, high blood pressure, tobacco use, high blood glucose, use of and side effects of some neuroleptic medications, physical inactivity, overweight and obesity, and unsafe sex.

(18) IMD or institution for mental diseases--Based on 42 CFR §435.1009, a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of individuals with serious mental illness, including medical attention, nursing care, and related services.

(19) Individual--A person seeking or receiving MH rehabilitative services.

(20) In vivo--The individual's natural environment (e.g., the individual's residence, work place, or school).

(21) LAR or legally authorized representative--A person authorized by law to act on behalf of an adult, child, or adolescent with regard to a matter described in this subchapter, including, but not limited to, a parent, guardian, or managing conservator.

(22) LMFT or Licensed marriage and family therapist--An individual who is licensed as a licensed marriage and family therapist by the Texas State Board of Examiners of Marriage and Family Therapists in accordance with Texas Occupations Code, Chapter 502.

(23) Licensed medical staff member--A staff member who is:

(A) a physician (MD) or (DO);

(B) a physician assistant (PA);

(C) an APRN;

(D) a registered nurse (RN);

(E) an LVN; or

(F) a pharmacist.

(24) LPC or Licensed professional counselor--A person who is licensed as a licensed professional counselor by the Texas State Board of Examiners of Professional Counselors in accordance with Texas Occupations Code, Chapter 503.

(25) LOC or level of care--A designation given to the department's standard sets of mental health services, based on the uniform assessment and utilization management guidelines referenced in §416.17 of this title (relating to Guidelines), which specify the type, amount, and duration of MH rehabilitative services to be provided to an individual.

(26) LPHA or licensed practitioner of the healing arts--This term shall have the meaning set forth in the §412.303 of this title (relating to Definitions).

(27) LVN or licensed vocational nurse--A staff member who is licensed as a vocational nurse by the Texas Board of Nursing in accordance with Texas Occupations Code, Chapter 301.

(28) Mental health (MH) rehabilitative services--Services that:

(A) are individualized, age-appropriate training and instructional guidance that restore an individual's functional deficits due to serious mental illness or SED;

(B) are designed to improve or maintain the individual's ability to remain in the community as a fully integrated and functioning member of that community; and

(C) consist of the following services:

(i) crisis intervention services;

(ii) medication training and support services;

(iii) psychosocial rehabilitative services;

(iv) skills training and development services; and

(v) day programs for acute needs.

(29) Medicaid provider--A Medicaid-enrolled provider with which the department has a Medicaid provider agreement to provide MH rehabilitative services under the State's Medicaid Program.

(30) Medical necessity or medically necessary--A clinical determination made by an LPHA that services:

(A) are reasonable and necessary for the treatment of a serious mental illness; or to improve, maintain, or prevent deterioration of functioning resulting from such a disorder;

(B) are provided in accordance with accepted standards of practice in behavioral health care;

(C) are furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(D) are at the most appropriate level or amount of service that can be safely provided; and

(E) could not have been omitted without adversely affecting the individual’s mental and/or physical health or the quality of care rendered.

(31) Mental health disorder--Health conditions involving changes in thinking, mood, and/or behaviors that are associated with distress or impaired functioning. When mental health disorders are more severe, they are called serious mental illnesses, which includes anxiety disorder, attention-deficit/hyperactivity disorder, depressive and other mood disorders, eating disorders, schizophrenia, and others.

(32) Nursing services--Services provided or delegated by an RN acting within the scope of his or her practice, as described in Texas Occupations Code, Chapter 301.

(33) On site--At a location operated by a provider or a person or entity under arrangement with the provider.

(34) PA or Physician assistant--A staff member who is licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners in accordance with Texas Occupations Code, Chapter 204.

(35) Peer provider--A staff member who:

(A) has received:

(i) a high school diploma; or

(ii) a high school equivalency certificate issued in accordance with the law of the issuing state; and

(B) has at least one cumulative year of receiving mental health services for a disorder that is treated in the target population for Texas.

(36) Pharmacist--A staff member who is licensed as a pharmacist by the Texas State Board of Pharmacy in accordance with Texas Occupations Code, Chapter 558.

(37) Physician--A staff member who is:

(A) licensed as a physician by the Texas Medical Boards in accordance with Texas Occupations Code, Chapter 155 (Medical Doctor or Doctor of Osteopathy); or

(B) authorized to perform medical acts under an institutional permit at a Texas postgraduate training program approved by the Accreditation Council on Graduate Medical Education, the American Osteopathic Association, or the Texas Medical Board.

(38) Primary caregiver--A person 18 years of age or older who has actual care, control, and possession of a child or adolescent.

(39) Problem-solving--The use of specific steps and strategies to analyze and evaluate a problematic situation in order to determine a course of action to resolve the problematic situation.

(40) Provider--An entity with which the department has a contractual agreement to provide MH Rehabilitative Services, including a Medicaid provider.

(41) Psychologist--A staff member who is licensed as a psychologist by the Texas State Board of Examiners of Psychologists in accordance with Texas Occupations Code, Chapter 501.

(42) QMHP-CS or qualified mental health professional-community services--A staff member who meets the definition of a QMHP-CS set forth in §412.303 of this title (relating to Definitions).

(43) Recovery--A process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(44) Recovery plan or treatment plan--A written plan developed with the individual and, as required, the LAR and a QMHP-CS that specifies the individual's recovery goals, objectives, and strategies/interventions in conjunction with the uniform assessment that guides the recovery process and fosters resiliency as further described in §412.322(e) of this title (relating to Provider Responsibilities for Treatment Planning and Service Authorization).

(45) Resilience--The ability to cope with and recover from adversity and stress.

(46) RN or registered nurse--A staff member who is licensed as a registered nurse by the Texas Board of Nursing in accordance with Texas Occupations Code, Chapter 301.

(47) SED or Serious emotional disturbance--A diagnosed mental health disorder that substantially disrupts a child's or adolescent's ability to function socially, academically, and emotionally.

(48) Serious mental illness--An illness, disease, disorder, or condition (other than a sole diagnosis of epilepsy, dementia, substance use disorder, or intellectual or developmental disability) that:

(A) substantially impairs an individual's thought, perception of reality, emotional process, development, or judgment; or

(B) grossly impairs an individual's behavior as demonstrated by recent disturbed behavior.

(49) Staff member--Personnel of a provider including a full-time or part-time employee, contractor, intern, or volunteer.

(50) Therapeutic team--A group of staff members who work together in a coordinated manner for the purpose of providing comprehensive mental health services to an individual.

(51) Uniform assessment--An assessment adopted by the department that is used for recommending an approved level of care (LOC).

(52) Utilization management guidelines--Guidelines developed by the department that suggest the type, amount, and duration of mental health services for each LOC.

§416.4. General Requirements for Providers of MH Rehabilitative Services.

(a) Compliance with MH community standards. In addition to complying with this subchapter, a provider must also comply with Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards) in the provision of MH rehabilitative services, as described in §412.304(a)(4) and (b) of this title (relating to Responsibility for Compliance).

(b) Staff supervision and oversight. A provider must develop policies and procedures in accordance with this subchapter for the supervision and oversight of staff members who provide MH rehabilitative services. Staff members who provide supervision must have experience in providing rehabilitative services and training in supervising rehabilitative services. The MH rehabilitative services provided by a:

(1) CFP must be directly supervised by a staff member who is credentialed as a QMHP-CS at minimum and who must have at least one year experience in the department-approved recovery and resilience protocol;

(2) peer provider must be under the direct clinical supervision of an LPHA;

(3) CSSP must be clinically supervised by a QMHP-CS;

(4) QMHP-CS must be clinically supervised by at least another QMHP-CS; and

(5) QMHP-CS supervisor of another QMHP-CS must be clinically supervised by an LPHA.

(c) Subcontract for providing services.

(1) A provider may choose to have any MH rehabilitative service provided by a person or entity through a subcontract.

(2) A provider must ensure that, if MH rehabilitative services are provided through a subcontract, then the subcontractor complies with all applicable federal and state laws, rules, and regulations, and any provider manuals and policy clarification letters promulgated by the department.

(d) Prohibitions against discrimination and retaliation.

(1) A provider may not discriminate against or deny services to an individual based on race, color, national origin, religion, sex, sexual orientation, age, disability, co-occurring disorder, or political affiliation.

(2) A provider must ensure that an individual's refusal of any service offered by the provider does not preclude the individual from accessing a needed MH rehabilitative service.

§416.5. Eligibility.

An individual is eligible for MH rehabilitative services if:

(1) the individual:

(A) is a resident of the State of Texas;

(B) is an adult with a serious mental illness or a child or adolescent with a serious emotional disturbance (SED); and

(C) qualifies for an LOC; and

(2) a determination that such services are medically necessary has been made by an LPHA who is:

(A) an employee of the department;

(B) an employee of an entity designated to make such determinations on behalf of the department; or

(C) a contractor of an entity designated to make such determinations on behalf of the department, if the LPHA is not otherwise employed by or contracting with an entity providing MH rehabilitative services through a subcontract.

§416.6. Service Authorization and Recovery Plan.

(a) Prerequisites to providing services. With the exception of crisis intervention services:

(1) the provider must obtain prior authorization from the department or its designee for the MH rehabilitative services to be provided in accordance with the uniform assessment, which is referenced in §416.17 of this title (relating to Guidelines); and the utilization management guidelines, which are referenced in §416.17 of this title; and

(2) an LPHA must determine whether the need for MH rehabilitative services meets the definition of medical necessity.

(b) Recovery planning.

(1) In collaboration with the individual or LAR, develop a recovery plan in accordance with §412.322(e) of this title (relating to Provider Responsibilities for Treatment Planning and Service Authorization) that also includes a list of the type(s) of MH rehabilitative services authorized in accordance with subsection (a)(1) of this section.

(2) A provider must develop the recovery plan required by paragraph (1) of this subsection within 10 days after the authorization date.

(c) Documenting medical necessity for crisis intervention services.

(1) An LPHA must, within two business days after crisis intervention services are provided:

(A) determine whether the crisis intervention services met the definition of medical necessity; and

(B) if the crisis intervention services were determined to meet medical necessity, document the medical necessity for such services.

(2) A provider is not required to develop a recovery plan for providing crisis intervention services.

(d) Reauthorization of MH rehabilitative services.

(1) Prior to the expiration of the authorization period or depleting the amount of services authorized:

(A) the provider must make a determination of whether the individual continues to need MH rehabilitative services; and

(B) an LPHA must determine whether the continuing need for MH rehabilitative services meets the definition of medical necessity.

(2) If the determination is that the individual continues to need MH rehabilitative services and that such services are medically necessary, the provider must:

(A) request another authorization from the department or its designee for the same type and amount of MH rehabilitative service previously authorized; or

(B) submit a request to the department or its designee, with documented clinical reasons for such request, to change the type or amount of MH rehabilitative services previously authorized if:

(i) the provider determines that the type or amount of MH rehabilitative services previously authorized is inappropriate to address the individual's needs; and

(ii) the criteria described in the utilization management guidelines for changing the type or amount of MH rehabilitative services has been met.

(e) Recovery plan review.

(1) In collaboration with the individual or LAR or primary caregiver, the provider must, review the recovery plan to determine if the plan adequately assists the individual in achieving recovery through the identified goals, objectives, and needs:

(A) at intervals set forth in the utilization management guidelines;

(B) as clinically indicated; and

(C) at the request of the individual, LAR, or primary caregiver.

(2) At the time the recovery plan is reviewed, the provider must:

(A) solicit active participation of the individual and LAR or primary caregiver of a child or adolescent regarding the services received to date and whether the services received have led to improvement and/or if there are other services to address unmet needs; and

(B) document such input.

(f) Revisions to the recovery plan. If, after review of the recovery plan the provider determines that the recovery plan does not adequately address the needs of the individual, the provider must, as appropriate:

(1) revise the content of the recovery plan; or

(2) must document medical necessity if there is a change in an LOC; and

(3) request authorization for a change in the type or amount of the MH rehabilitative services authorized consistent with subsection (d)(2) of this section.

§416.7. Crisis Intervention Services.

(a) Description. Crisis intervention services are interventions provided in response to a crisis in order to reduce or manage symptoms of serious mental illness or SED and to prevent admission of an individual to a more restrictive environment. Crisis intervention services consist of the following interventions:

(1) an assessment of dangerousness of the individual to self or others;

(2) the coordination of emergency care services in accordance with §412.314 of this title (relating to Access to Mental Health Community Services);

(3) behavior skills training to assist the individual in reducing distress and managing symptoms;

(4) problem-solving;

(5) reality orientation to help the individual identify and manage his or symptoms of serious mental illness or SED; and

(6) providing instruction, structure, and emotional support to the individual in adapting to and coping with immediate stressors.

(b) Conditions.

(1) Crisis intervention services may be provided to:

(A) an adult; or

(B) a child or adolescent.

(2) Crisis intervention services must be provided one-to-one.

(3) Crisis intervention services may be provided:

(A) on site; or

(B) in vivo.

(4) Crisis intervention services must be provided by a QMHP-CS at a minimum.

(5) Crisis intervention services may not be provided to an individual who is currently admitted to a CSU.

(6) Crisis intervention services may be provided to an individual without first obtaining authorization from the department, or its designee, in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

(7) Crisis intervention services may be provided without a recovery plan described in §416.6 of this title.

§416.8. Medication Training and Support Services.

(a) Description. Medication training and support services consist of education and guidance about medications and their possible side effects. The department has reviewed and approved the use of the materials that are available on the department's internet site at: http://www.dshs.state.tx.us/mhsa/patient-family-ed/and other materials which have been formally reviewed and approved by the department, to assist an individual in:

(1) understanding the nature of an adult's serious mental illness or a child's or adolescent's SED;

(2) understanding the concepts of recovery and resilience within the context of the serious mental illness;

(3) understanding the role of the individual's prescribed medications in reducing symptoms and increasing or maintaining the individual's functioning;

(4) identifying and managing the individual's symptoms and potential side effects of the individual's medication;

(5) learning the contraindications of the individual's medication;

(6) understanding the overdose precautions of the individual's medication; and

(7) learning self-administration of the individual's medication.

(b) Conditions.

(1) Medication training and support services may be provided to:

(A) an eligible adult;

(B) an eligible child or adolescent; or

(C) the LAR or primary caregiver of an eligible adult, child, or adolescent.

(2) Medication training and support services provided to an adult may be provided:

(A) individually; or

(B) in a group.

(3) Medication training and support services provided to a child or adolescent may be provided:

(A) individually; or

(B) in a group.

(4) Medication training and support services provided to an LAR or primary caregiver may be provided:

(A) individually; or

(B) in a group, except that the adult, child or adolescent may also be present.

(5) Medication training and support services may be provided:

(A) on site; or

(B) in vivo.

(6) Medication training and support services provided to an adult or LAR must be provided by:

(A) a QMHP-CS;

(B) a CSSP;

(C) a peer provider; or

(D) a licensed medical staff member.

(7) Medication training and support services provided to a child, adolescent, LAR, or primary caregiver must be provided by:

(A) a QMHP-CS;

(B) a CSSP;

(C) a CFP; or

(D) a licensed medical staff member.

(8) Medication training and support services may not be provided to an individual who is currently admitted to a CSU.

(c) Frequency and duration. The provision of medication training and support services must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

§416.9. Psychosocial Rehabilitative Services.

(a) Description. Psychosocial rehabilitative services are social, behavioral, and cognitive interventions provided by members of an individual's therapeutic team that build on strengths and focus on restoring the individual's ability to develop and maintain social relationships, occupational or educational achievement, and other independent living skills that are affected by or the result of a serious mental illness in adults. Psychosocial rehabilitative services may also address the impact of co-occurring disorders upon the individual's ability to reduce symptomology and increase daily functioning. Psychosocial rehabilitative services that include, but are not limited to, the following component services:

(1) independent living services;

(2) coordination services;

(3) employment related services;

(4) housing related services;

(5) medication related services; and

(6) crisis related services.

(b) Conditions.

(1) Psychosocial rehabilitative services:

(A) may only be provided to an eligible adult;

(B) may be provided individually or in a group;

(C) may be provided on site or in vivo;

(D) must be provided by a member of the individual's therapeutic team; and

(E) may not be provided to an individual who is currently admitted to a CSU.

(2) The therapeutic team must be constituted and organized in a manner that ensures that:

(A) the team includes a sufficient number of staff to adequately address the rehabilitative needs of individuals assigned to the team;

(B) team members are appropriately credentialed to provide the full array of component services;

(C) team members have regularly scheduled team meetings either in person or by teleconference; and

(D) every member of the team is knowledgeable of the needs and of the services available to the specific individuals assigned to the team.

(3) Independent living services, coordination services, employment related services, and housing related services, as described in subsection (c)(1) - (4) of this section, must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a peer provider.

(4) Medication related services, as described in subsection (c)(5) of this section, must be provided by licensed medical personnel.

(5) Crisis related services, as described in subsection (c)(6) of this section, must be provided by a QMHP-CS.

(6) As part of providing the coordination services described in subsection (c)(2) of this section, a QMHP-CS must conduct the uniform assessment at intervals specified by the department to determine the type, amount, and duration of MH rehabilitative services.

(c) Components of psychosocial rehabilitative services. Psychosocial rehabilitative services include, but are not limited to, the following.

(1) Independent living services assist an individual in acquiring the most immediate, fundamental functional skills needed to enable the individual to reside in the community and avoid more restrictive levels of treatment or reducing behaviors or symptoms that prevent successful functioning in the individual's environment of choice. Such services include training in symptom management, personal hygiene, nutrition, food preparation, exercise, money management and community integration activities.

(2) Coordination services are training activities that assist an individual in improving his or her ability to gain and coordinate access to necessary care and services appropriate to the needs of the individual. Coordination services include, but are not limited to, instruction and guidance in such areas as:

(A) assessment--identifying strengths and areas of need across life domains;

(B) recovery planning--prioritizing needs and establishing life and treatment goals, selecting interventions, developing and revising recovery plans that include wellness, relapse prevention, and crisis plans;

(C) access--identifying potential service providers and support systems across all life domains (e.g., medical, social, educational, substance use), initiating contact with providers and support systems including advocacy groups;

(D) coordination--setting appointments, arranging transportation, facilitating communication between providers; and

(E) advocacy--

(i) asserting treatment needs, requesting special accommodations, evaluating provider effectiveness and compliance with the agreed upon recovery plan; and

(ii) requesting improvements and modifications to ensure maximum benefit from the services and supports.

(3) Employment related services provide supports and skills training that are not job-specific and focus on developing skills to reduce or manage the symptoms of serious mental

illness that interfere with an individual's ability to make vocational choices or obtain or retain employment. Such services consist of:

(A) instruction in dress, grooming, socially and culturally appropriate behaviors, and etiquette necessary to obtain and retain employment;

(B) training in task focus, maintaining concentration, task completion, and planning and managing activities to achieve outcomes;

(C) instruction in obtaining appropriate clothing, arranging transportation, utilizing public transportation, accessing and utilizing available resources related to obtaining employment, and accessing employment-related programs and benefits (e.g., unemployment, workers' compensation, and Social Security);

(D) interventions or supports provided on or off the job site to reduce behaviors or symptoms of serious mental illness that interfere with job performance or that interfere with the development of skills that would enable the individual to obtain or retain employment; and

(E) interventions designed to develop natural supports on or off the job site to compensate for skill deficits that interfere with job performance.

(4) Housing related services develop an individual's strengths and abilities to manage the symptoms of the individual's serious mental illness that interfere with the individual's capacity to obtain or maintain tenure in independent integrated housing. Such services consist of:

(A) skills training related to:

(i) home maintenance and cleanliness;

(ii) problem-solving with the individual's landlord and neighbors, mortgage lender, or homeowners association; and

(iii) maintaining appropriate interpersonal boundaries; and

(B) supportive contacts with the individual to reduce or manage the behaviors or symptoms related to the individual's serious mental illness that interfere with maintaining independent integrated housing.

(5) Medication related services provide training regarding an individual's medication adherence. Such services consist of training in:

(A) the importance of the individual taking the medications as prescribed;

(B) the self-administration of the individual's medication;

(C) determining the effectiveness of the individual's medications;

(D) identifying side-effects of the individual's medications; and

(E) contraindications for medications prescribed.

(6) Crisis related services respond to an individual in crisis in order to reduce symptoms of serious mental illness or SED and to prevent admission of the individual to a more restrictive environment.

(d) Frequency and duration. The provision of psychosocial rehabilitative services must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

§416.10. Skills Training and Development Services.

(a) Description.

(1) Skills training and development services is training provided to an eligible individual or the LAR or primary caregiver of an eligible adult, child, or adolescent. Such training:

(A) addresses serious mental illness or SED and symptom-related problems that interfere with the individual's functioning and living, working, and learning environment;

(B) provides opportunities for the individual to acquire and improve skills needed to function as appropriately and independently as possible in the community; and

(C) facilitates the individual's community integration and increases his or her community tenure.

(2) Skills training and development services consist of teaching an individual the following skills:

(A) skills for managing daily responsibilities (e.g., paying bills, attending school, and performing chores);

(B) communication skills (e.g., effective communication and recognizing or change problematic communication styles);

(C) pro-social skills (e.g., replacing problematic behaviors with behaviors that are socially and culturally appropriate or developing interpersonal relationship skills necessary to function effectively with family, peer, teachers, or other people in the community);

(D) problem-solving skills;

(E) assertiveness skills (e.g., resisting peer pressure, replacing aggressive behaviors with assertive behaviors, and expressing one's own opinion in a manner that is socially appropriate);

(F) social skills and expanding the individual social support network, (e.g., selection of appropriate friends and healthy activities);

(G) stress reduction techniques (e.g., progressive muscle relaxation, deep breathing exercises, guided imagery, and selected visualization);

(H) anger management skills (e.g., identification of antecedents to anger, calming down, stopping and thinking before acting, handling criticism, avoiding and disengaging from explosive situations);

(I) skills to manage the symptoms of serious mental illness or SED and to recognize and modify unreasonable beliefs, thoughts and expectations;

(J) skills to identify and utilize community resources and informal supports;

(K) skills to identify and utilize acceptable leisure time activities (e.g., identifying pleasurable leisure time activities that will foster acceptable behavior); and

(L) independent living skills (e.g., money management, accessing and using transportation, grocery shopping, maintaining housing, maintaining a job, and decision making).

(3) Skills training and development services consist of:

(A) assisting the child or adolescent in learning the skills described in paragraph (2) of this subsection; and

(B) increasing the LAR's or primary caregiver's understanding of and ability to respond to the individual's needs identified in the uniform assessment or documented in the recovery plan.

(b) Conditions.

(1) Skills training and development services may be provided to:

(A) an eligible adult;

(B) an eligible child or adolescent; or

(C) the LAR or primary caregiver of an individual.

(2) Skills training and development services provided to an individual, LAR, or primary caregiver of a child or adolescent may be provided:

(A) individually; or

(B) in a group.

(3) Skills training and development services may be provided:

(A) on site; or

(B) in vivo.

(4) Skills training and development services provided to an individual must be provided according to curricula approved by the department.

(5) Skills training and development services provided to an adult or LAR must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a peer provider.

(6) Skills training and development services provided to a child or adolescent, LAR, or primary caregiver must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a CFP.

(7) Skills training and development services may not be provided to an individual who is currently admitted to a CSU.

(c) Frequency and Duration. The provision of skills training and development services must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

§416.11. Day Programs for Acute Needs.

(a) Description. Day programs for acute needs provide short term, intensive treatment to an individual who requires multidisciplinary treatment in order to stabilize acute psychiatric symptoms or prevent admission to a more restrictive setting. Day programs for acute needs:

(1) are provided in a highly structured and safe environment with constant supervision;

(2) ensure an opportunity for frequent interaction between an individual and staff members;

(3) are services that are goal oriented and focus on:

(A) reality orientation;

(B) symptom reduction and management;

(C) appropriate social behavior;

(D) improving peer interactions;

(E) improving stress tolerance;

(F) the development of coping skills; and

(4) consist of the following component services:

(A) psychiatric nursing services;

(B) pharmacological instruction;

(C) symptom management training; and

(D) functional skills training.

(b) Conditions.

(1) Day programs for acute needs:

(A) may only be provided to eligible adults;

(B) may be provided in a setting with any number of individuals; and

(C) may be provided:

(i) on site; or

(ii) in a short-term, crisis-resolution oriented residential treatment setting that is not:

(I) a general medical hospital;

(II) a psychiatric hospital; or

(III) an IMD.

(2) Except as provided by paragraphs (4) and (5) of this subsection, day programs for acute needs must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a peer provider.

(3) Day programs for acute needs must, at all times:

(A) have a sufficient number of staff members to ensure safety and program adequacy; and

(B) at a minimum include:

(i) one RN for every 16 individuals at the day program's location;

(ii) one physician to be available by phone, with a response time not to exceed 15 minutes;

(iii) two staff members who are QMHP-CSs, CSSPs, or peer providers at the day program's location;

(iv) one additional QMHP-CS who is not assigned full-time to another day program to be physically available, with a response time not to exceed 30 minutes; and

(v) additional QMHP-CSs, CSSPs, or peer providers at the day program's location sufficient to maintain a ratio of one staff member to every four individuals.

(4) Psychiatric nursing services, as described in subsection (c)(1) of this section, must be provided by an RN at the day program's location.

(5) Pharmacological instruction, as described in subsection (c)(2) of this section, must be provided by a licensed medical personnel.

(c) Components of day programs for acute needs.

(1) Psychiatric nursing services consist of:

(A) a nursing assessment;

(B) the coordination of medical activities (e.g., referrals to specialists and scheduling medical laboratory tests);

(C) the administration of medication;

(D) laboratory specimen collections and screenings (e.g., the Abnormal Involuntary Movement Scale);

(E) emergency medical interventions as ordered by a physician; and

(F) other nursing services.

(2) Pharmacological instruction is training to an individual that addresses medication issues related to the crisis precipitating the provision of day programs for acute needs. Such medication issues consist of:

(A) the role of the individual's medications in stabilizing acute psychiatric symptoms or preventing admission to a more restrictive setting;

(B) the identification of substances that reduce the effectiveness of the individual's medications;

(C) appropriate interventions to reduce side effects of the medications; and

(D) the self-administration of the individual's medication.

(3) Symptom management training assists an individual in recognizing and reducing her or his symptoms and includes training the individual on:

(A) the identification of thoughts, feelings, or behaviors that indicate the onset of acute psychiatric symptoms;

(B) developing coping strategies to address the symptoms;

(C) ways to avoid symptomatic episodes;

(D) identification of external circumstances that trigger the onset of the acute psychiatric symptoms; and

(E) relapse prevention strategies.

(4) Functional skills training assists an individual in acquiring the skills needed to enable the individual to continue to reside in the community and avoid more restrictive levels of treatment and includes training the individual on:

(A) personal hygiene;

(B) nutrition;

(C) food preparation;

(D) money management;

(E) socially and culturally appropriate behavior; and

(F) accessing and participating in community activities.

(d) Frequency and duration. The provision of day programs for acute needs must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

§416.12. Documentation Requirements.

(a) MH rehabilitative services documentation. A rehabilitative services provider must document the following for all MH rehabilitative services:

(1) the name of the individual to whom the service was provided;

(2) the type of service provided;

(3) the specific goal or objective addressed, modality, and method used to provide the service;

(4) the date the service was provided;

(5) the begin and end time of the service;

(6) the location where the service was provided;

(7) the signature of the staff member providing the service and a notation of their credential (e.g., a QMHP-CS, a pharmacist, a CSSP, a CFP, or a peer provider);

(8) any pertinent event or behavior relating to the individual's treatment which occurs during the provision of the service;

(9) any pertinent information required to be documented by the curricula, protocol, or practice approved by the department; and

(10) the outcome or response, as applicable:

(A) for crisis intervention service, the outcome of the crisis;

(B) for psychosocial coordination services, the outcome of the services;

(C) for day programs for acute needs, the progress or lack of progress in stabilizing the individual's acute psychiatric symptoms; or

(D) for all other services, the individual's response, including the progress or lack of progress in achieving recovery plan goals and objectives.

(b) Crisis services documentation. In addition to the requirements described in subsection (a) of this section, when providing crisis services, a provider must document the information required by 412.321(e) of this title (relating to Crisis Services).

(c) Medical necessity documentation. An LPHA must document that MH rehabilitative services are medically necessary when the services are authorized and reauthorized.

(d) Frequency of documentation.

(1) Day programs for acute needs. For day programs for acute needs, the documentation required by subsection (a)(1) - (9) and (10)(C) of this section must be made daily.

(2) Programs other than day programs for acute needs. For MH rehabilitative services other than day programs for acute needs, the documentation required by subsection (a)(1) - (9) and (10)(A),(B), and (D) of this section must be made after each face-to-face contact that occurs to provide the MH rehabilitative service.

(3) Medical necessity. An LPHA must document medical necessity in accordance with §416.6 of this title (relating to Service Authorization and Recovery Plan).

(4) Retention. A provider must retain documentation in compliance with applicable federal and state laws, rules, and regulations.

§416.13. Staff Member Competency and Training.

(a) General competency of staff members. In accordance with §412.316 of this title (relating to Competency and Credentialing), a provider must ensure the competency of staff members prior to providing services.

(b) MH rehabilitative services training and competency of staff members. A provider must ensure that staff members providing MH rehabilitative services receive initial training and ensure the competency of a staff member who provides or supervises the provision MH rehabilitative services in the following areas:

(1) the nature of serious mental illness and SED;

(2) the concepts of recovery and resilience;

(3) the department-approved curricula, protocol, or practice;

(4) the rehabilitative practice techniques found in curricula, program practices, and protocols; and

(5) the prevalence of health risk factors.

(c) Additional training related to children and adolescents. A staff member who routinely provides or supervises the provision of MH rehabilitative services to a child or adolescent must receive training and demonstrate competency as required by subsection (b) of this section and in the following areas:

(1) the aspects of a child's or adolescent's growth and development (including physical, emotional, cognitive, educational and social) and the treatment needs of a child and adolescent; and

(2) the department's approved skills training curricula, protocol, or practice guidelines.

(d) Except for the direct clinical supervision of a peer provider, which must be provided by an LPHA, the clinical supervision of the provision of MH rehabilitative services must be provided by a staff member who is, at minimum, a QMHP-CS.

(e) Approved curricula. If a staff member provides MH rehabilitative services through a department-approved curricula, protocol, or practice guideline, the staff member must be trained in the implementation of the curriculum, protocol, or practice guideline.

(f) Follow-up training. In addition to the training required in subsection (a) of this section, staff members may be required to receive additional training as determined by the department.

(g) Training documentation. A provider must document that a staff member has successfully completed the training and has demonstrated competencies in the areas described in subsection (a) of this section.

§416.14. Medicaid Reimbursement.

(a) Billable and non-billable activities.

(1) A Medicaid provider may only bill for medically necessary MH rehabilitative services that are provided face-to-face to:

(A) a Medicaid-eligible individual;

(B) the LAR of a Medicaid-eligible adult (on behalf of the adult);or

(C) the LAR or primary caregiver of a Medicaid-eligible child or adolescent (on behalf of the child or adolescent).

(2) The cost of the following activities are included in the Medicaid MH rehabilitative services reimbursement rate(s) and may not be directly billed by the Medicaid provider:

(A) developing and revising the recovery plan and interventions that are appropriate to an individual's needs;

(B) staffing and team meetings to discuss the provision of MH rehabilitative services to a specific individual;

(C) monitoring and evaluating outcomes of interventions, including contacts with a person other than the individual;

(D) documenting the provision of MH rehabilitative services;

(E) a staff member traveling to and from a location to provide MH rehabilitative services;

(F) all services provided within a day program for acute needs that are delivered by a staff member, including services delivered in response to a crisis or an episode of acute psychiatric symptoms; and

(G) administering the uniform assessment to individuals who are receiving psychosocial rehabilitative services.

(b) Non-reimbursable activities.

(1) The department will not reimburse a Medicaid provider for any MH rehabilitative services provided to an individual who is:

(A) a resident of an intermediate care facility for persons with an intellectual or developmental disability as described in 42 CFR §440.150;

(B) a resident in an IMD;

(C) an inmate of a public institution as defined in 42 CFR §435.1009;

(D) a resident in a Medicaid-certified nursing facility unless the individual has been determined through a pre-admission screening and annual resident review assessment to be eligible for the specialized service of MH rehabilitative services;

(E) a patient in a general medical hospital; or

(F) not Medicaid-eligible.

(2) With the exception of crisis intervention services and psychosocial rehabilitative services that are being provided to resolve a crisis situation, the department will not reimburse a Medicaid provider for any combination of MH rehabilitative services delivered in excess of eight hours per individual per day. In addition, the department will not reimburse a Medicaid provider for more than:

(A) two hours per individual per day of medication training and support services;

(B) four hours per individual per day of psychosocial rehabilitative services when the psychosocial rehabilitative services are being provided in non-crisis situations;

(C) four hours per individual per day of skills training and development services; and

(D) six hours per individual per day of day programs for acute needs.

(3) The department will not reimburse a Medicaid provider for:

(A) an MH rehabilitative service that is not included in the individual's recovery plan (except for crisis intervention services documented in accordance with §416.6(b) of this title (relating to Service Authorization and Recovery Plan)) and psychosocial rehabilitative services provided in a crisis situation;

(B) an MH rehabilitative service that is not authorized in accordance with §416.6 of this title (except for crisis intervention services documented in accordance with §416.6(b) of this title);

(C) an MH rehabilitative service provided in excess of the amount authorized in accordance with §416.6(a)(1) of this title;

(D) an MH rehabilitative service provided outside of the duration authorized in accordance with §416.6(b) of this title;

(E) a psychosocial rehabilitative service provided to an individual receiving MH case management services in accordance with Chapter 412, Subchapter I of this title (relating to MH Case Management);

(F) an MH rehabilitative service that is not documented in accordance with §416.12 of this title (relating to Documentation Requirements);

(G) an MH rehabilitative service provided to an individual who does not meet the eligibility criteria as described in §416.5 of this title (relating to Eligibility);

(H) an MH rehabilitative service provided to an individual who does not have a current uniform assessment (except for crisis intervention services documented in accordance with §416.6(b) of this title);

(I) an MH rehabilitative service provided to an individual who is not present, awake, and participating during such service;

(J) an MH rehabilitative service that is provided via electronic media;

(K) a crisis service provided to an individual who does not have a serious mental illness; and

(L) any other activity or service identified as non-reimbursable in the department's MH Rehabilitative Services Billing Guidelines, referenced in §416.17 of this title (relating to Guidelines).

(c) Services provided same time and same day.

(1) If a Medicaid provider provides more than one MH rehabilitative service to an individual at the same time and on the same day, the Medicaid provider may bill for only one of the services provided.

(2) A Medicaid provider may bill for a MH rehabilitative service provided to a child or adolescent's LAR or primary caregiver at the same time and on the same day the child or adolescent is receiving another MH rehabilitative service only if the staff member providing the service to the LAR or primary caregiver is different from the staff member providing the service to the child or adolescent.

(d) Services provided before a fair hearing. If the provision of a MH rehabilitative service is continued prior to a fair hearing decision being rendered, as required by 1 TAC §357.7 (relating to Agency and Designee Responsibilities), the Medicaid provider may bill for such service.

§416.15. Medicaid Provider Participation Requirements.

(a) Qualifications. To become a Medicaid provider of MH rehabilitative services, an entity must:

(1) be established as a community mental health center in accordance with Texas Health and Safety Code, §534.001, that:

(A) provides services comparable to MH rehabilitative services and the services described in the Texas Health and Safety Code, §534.053(a)(1) - (7);

(B) is in compliance with Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards);

(C) conducts criminal history clearances on all contractors delivering MH rehabilitative services and all employees and applicants of the Medicaid provider to whom an offer of employment is made and ensures that individuals do not come in contact with and are not provided services by an employee or contractor of the Medicaid provider (or employee or

contractor of contractors delivering MH rehabilitative services under a contract with the Medicaid provider) who has a conviction for any of the criminal offenses listed in Texas Health and Safety Code, §250.006, or for any criminal offense that the Medicaid provider has determined to be a contraindication to employment; and

(D) has a Medicaid provider agreement with the department to provide MH rehabilitative services; or

(2) be a corporation incorporated or registered to do business in the State of Texas that:

(A) has completed an application evidencing that it:

(i) provides services comparable to MH rehabilitative services and the services described in the Texas Health and Safety Code, §534.053(a)(1) - (7);

(ii) is in compliance with Chapter 412, Subchapter G, of this title;

(iii) has demonstrated a history of providing, as well as the capacity to continue to provide, services to individuals required to submit to mental health treatment:

(I) under the Texas Code of Criminal Procedure, Article 17.032 (relating to Release on Personal Bond of Certain Mentally Ill Defendants), or Article 42.12 §11(d) (relating to Community Supervision); and

(II) under the Texas Health and Safety Code, Chapter 573 (relating to Emergency Detention) and Chapter 574 (relating to Court-Ordered Mental Health Services); and

(iv) conducts criminal history clearances on all contractors delivering MH rehabilitative services and all employees and applicants of the corporation to whom an offer of employment is made and ensures that individuals do not come in contact with and are not provided services by an employee or contractor of the corporation (or employee or contractor of contractors delivering MH rehabilitative services under a contract with the corporation) who has a conviction for any of the criminal offenses listed in Texas Health and Safety Code, §250.006, or for any criminal offense that the corporation has determined to be a contraindication to employment;

(B) has had its application information confirmed by an on-site visit by the department;

(C) has had its application approved by the department; and

(D) has signed a Medicaid provider agreement with the department to provide MH rehabilitative services.

(b) Compliance. A Medicaid provider must:

(1) comply with all applicable federal and state laws, rules, and regulations, and any Medicaid provider manuals and policy clarification letters promulgated by the department;

(2) document and bill for reimbursement of MH rehabilitative services in the manner and format prescribed by the department;

(3) allow the department access to all individuals and individuals' records;

(4) maintain capacity to provide those services that are described in Texas Health and Safety Code, §534.053(a)(1) - (7); and

(5) maintain capacity to provide services to individuals required to submit to mental health treatment:

(A) under the Texas Code of Criminal Procedure, Article 17.032 (relating to Release on Personal Bond of Certain Mentally Ill Defendants), or Article 42.12 §11(d) (relating to Community Supervision); and

(B) under the Texas Health and Safety Code, Chapter 573 (relating to Emergency Detention) and Chapter 574 (relating to Court-Ordered Mental Health Services).

§416.16. Fair Hearings and Reviews.

(a) Right of Medicaid-eligible individual to request a fair hearing. Any Medicaid-eligible individual whose request for eligibility for MH rehabilitative services is denied or is not acted upon with reasonable promptness, or whose MH rehabilitative services have been terminated, suspended, or reduced by the department is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

(b) Notice. The Medicaid provider must notify the department or its designee if the provider has reason to believe that an individual's MH rehabilitative services should be denied, reduced or terminated.

(c) Right of non-Medicaid eligible individual to request a review._Any individual who has not applied for or is not eligible for Medicaid whose request for eligibility for MH rehabilitative services is not acted upon with reasonable promptness, or whose MH rehabilitative services have been terminated, suspended, or reduced by a local mental health authority or its contractor is entitled to the right of review and notification in accordance with the department’s rules concerning such matters for non-Medicaid-eligible individuals.

§416.17. Guidelines.

The following guidelines are referenced in this subchapter. For information about obtaining copies of the guidelines contact the Department of State Health Services, Mental Health Program Services Section, Mail Code 2018, P.O. Box 149347, Austin, Texas 78714-9347, (512) 467-5427 or access them electronically.

(1) The uniform assessment guidelines are available at: http://www.dshs.state.tx.us/mhprograms/RDMAssess.shtm.

(2) The utilization management guidelines for adults and children are available at: http://www.dshs.state.tx.us/mhprograms/RDMClinGuide.

(3) Patient and family education resources are available at http://www.dshs.state.tx.us/mhsa/patient-family-ed/.

(4) *Medicaid MH Rehabilitative Services Billing Guidelines* are available at: http://www.dshs.state.tx.us/mhsa/rdm/billing/.

Proposed Repealed Language
~~Strikethrough=repealed text~~

~~§419.451 Purpose~~

~~The purpose of this subchapter is to describe the requirements for the provision of mental health rehabilitative services.~~

~~§419.452 Application~~

~~This subchapter applies to providers of mental health rehabilitative services.~~

~~§419.453 Definitions~~

~~The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:~~
~~(1) Adolescent--An individual who is at least 13 years of age, but younger than 18 years of age.~~
~~(2) Adult--An individual who is 18 years of age or older.~~
~~(3) Advanced practice nurse--A staff member who is a registered nurse approved by the Texas State Board of Nurse Examiners to practice as an advanced practice nurse, in accordance with Texas Occupations Code, Chapter 301. The term is synonymous with "advanced nurse practitioner."~~
~~(4) Arrangement--A contract between a provider and a person or entity for the provision of MH rehabilitative services.~~
~~(5) Authorization period--The duration for which the provider has obtained authorization in accordance with §419.456(a) of this title (relating to Service Authorization and Treatment Plan).~~
~~(6) Business day--Any day except a Saturday, Sunday, or legal holiday listed in Texas Government Code, §662.021.~~
~~(7) CFR--The Code of Federal Regulations.~~
~~(8) Child--An individual who is at least three years of age, but younger than 13 years of age.~~
~~(9) Crisis--A situation in which:~~
~~(A) because of a mental health condition:~~
~~(i) an individual presents an immediate danger to self or others; or~~
~~(ii) an individual's mental or physical health is at risk of serious deterioration; or~~
~~(B) an individual believes that he or she presents an immediate danger to self or others or that his or her mental or physical health is at risk of serious deterioration.~~
~~(10) CSSP or community services specialist--A staff member who, as of August 30, 2004:~~
~~(A) has received:~~
~~(i) a high school diploma; or~~
~~(ii) a high school equivalency certificate issued in accordance with the law of the issuing state;~~

(B) has had three continuous years of documented full-time experience in the provision of MH rehabilitative services; and

(C) has demonstrated competency in the provision and documentation of MH rehabilitative services in accordance with this subchapter and the MH Rehabilitative Services Billing Guidelines.

(11) CSU or crisis stabilization unit--A crisis stabilization unit licensed under Chapter 577, of the Texas Health and Safety Code and Chapter 134 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units).

(12) Day--Calendar day, unless otherwise specified.

(13) Department--Department of State Health Services.

(14) Direct clinical supervision--An LPHA's interaction with a peer provider to ensure that MH rehabilitative services provided by the peer provider are clinically appropriate and in compliance with this subchapter by:

(A) conducting a documented face-to-face meeting with the peer provider at regularly scheduled intervals; and

(B) conducting, at least monthly, a documented face-to-face observation of the peer provider providing MH rehabilitative services.

(15) Face-to-face--Within the physical presence of another person.

(16) Group--A service delivery modality involving two to eight individuals (for adults), or two to six individuals (for children and adolescents or their legally authorized representatives (LARs) or primary caregivers), and at least one staff member.

(17) IMD or institution for mental diseases--Based on 42 CFR §435.1009, a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of individuals with mental illness, including medical attention, nursing care, and related services.

(18) Individual--A person seeking or receiving MH rehabilitative services.

(19) In-vivo--The individual's natural environment (e.g., the individual's residence, work place, or school).

(20) LAR or legally authorized representative--A person authorized by law to act on behalf of a child or adolescent with regard to a matter described in this subchapter, and who may be a parent, guardian, or managing conservator.

(21) Licensed marriage and family therapist--An individual who is licensed as a licensed marriage and family therapist by the Texas State Board of Examiners of Marriage and Family Therapists in accordance with Texas Occupations Code, Chapter 502.

(22) Licensed medical personnel--A staff member who is:

(A) a physician;

(B) a physician assistant;

(C) an RN;

(D) an LVN; or

(E) a pharmacist.

(23) Licensed professional counselor--A person who is licensed as a licensed professional counselor by the Texas State Board of Examiners of Professional Counselors in accordance with Texas Occupations Code, Chapter 503.

(24) LOC or level of care--A designation given to the department's standardized packages of MH rehabilitative services, based on the uniform assessment and utilization management guidelines referenced in §419.468 of this title (relating to Guidelines), which

~~specify the type, amount, and duration of MH rehabilitative services to be provided to an individual.~~

~~(25) LPHA or licensed practitioner of the healing arts--A staff member who is:~~

~~(A) a physician;~~

~~(B) a licensed professional counselor;~~

~~(C) a licensed clinical social worker (formally a licensed master social worker-advanced clinical practitioner) as determined by the Texas State Board of Social Work Examiners in accordance with Texas Occupations Code, Chapter 505;~~

~~(D) a psychologist;~~

~~(E) an advanced practice nurse recognized by the Board of Nurse Examiners for the State of Texas as a clinical nurse specialist in psych/mental health or nurse practitioner in psych/mental health; or~~

~~(F) a licensed marriage and family therapist.~~

~~(26) LVN or vocational nurse--A person who is licensed as a vocational nurse by the Texas Board of Nurse Examiners in accordance with Texas Occupations Code, Chapter 301 or, prior to February 1, 2004, was licensed as a licensed vocational nurse by the Texas Board of Nurse Examiners in accordance with Texas Occupations Code, Chapter 302, and whose license has not yet expired.~~

~~(27) Master's level professional--A staff member who has completed a master's degree that is a prerequisite for licensure as one of the professionals listed in the definition of LPHA and is actively pursuing such licensure.~~

~~(28) Mental health (MH) rehabilitative services--Services that:~~

~~(A) are individualized age-appropriate training and instructional guidance that address an individual's functional deficits due to severe and persistent mental illness or serious emotional disturbance;~~

~~(B) are designed to improve or maintain the individual's ability to remain in the community as a fully integrated and functioning member of that community; and~~

~~(C) consist of the following services:~~

~~(i) crisis intervention services;~~

~~(ii) medication training and support services;~~

~~(iii) psychosocial rehabilitative services which consist of the following component services:~~

~~(I) independent living services;~~

~~(II) coordination services;~~

~~(III) employment related services;~~

~~(IV) housing related services;~~

~~(V) medication related services; and~~

~~(VI) crisis related services;~~

~~(iv) skills training and development services; and~~

~~(v) day programs for acute needs which consist of the following component services;~~

~~(I) psychiatric nursing services;~~

~~(II) pharmacological instruction;~~

~~(III) symptom management training; and~~

~~(IV) functional skills training.~~

~~(29) Medicaid provider--A Medicaid-enrolled provider with which the department has a Medicaid provider agreement to provide MH rehabilitative services under the State's Medicaid Program.~~

~~(30) Medical necessity--The need for a service that:~~

~~(A) is reasonable and necessary for the diagnosis or treatment of a mental health disorder or a mental health and substance use disorder in order to improve or maintain an individual's level of functioning;~~

~~(B) is in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care;~~

~~(C) is furnished in the most appropriate and least restrictive setting in which the service can be safely provided;~~

~~(D) is provided at a level that is safe and appropriate for the individual's needs and facilitates the individual's recovery; and~~

~~(E) could not be omitted without adversely affecting the individual's mental or physical health or the quality of care rendered.~~

~~(31) Nursing services--Services provided or delegated by an RN acting within the scope of his or her practice, as described in Texas Occupations Code, Chapter 301.~~

~~(32) On-site--A location operated by a provider or a person or entity under arrangement with the provider at which MH rehabilitative services are provided, such as a clinic, clubhouse, or office.~~

~~(33) Peer provider--A staff member who:~~

~~(A) has received:~~

~~(i) a high school diploma; or~~

~~(ii) a high school equivalency certificate issued in accordance with the law of the issuing state;~~

~~(B) has at least one cumulative year of receiving mental health services for a disorder that is treated in the target population for Texas; and~~

~~(C) is under the direct clinical supervision of an LPHA.~~

~~(34) Pharmacist--A person who is licensed as a pharmacist by the Texas State Board of Pharmacy in accordance with Texas Occupations Code, Chapter 558.~~

~~(35) Physician--A staff member who is:~~

~~(A) licensed as a physician by the Texas State Board of Medical Examiners in accordance with Texas Occupations Code, Chapter 155 (medical doctor or doctor of osteopathy); or~~

~~(B) authorized to perform medical acts under an institutional permit at a Texas postgraduate training program approved by the Accreditation Council on Graduate Medical Education, the American Osteopathic Association, or the Texas State Board of Medical Examiners.~~

~~(36) Physician assistant--A person who is licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners in accordance with Texas Occupations Code, Chapter 204.~~

~~(37) Primary caregiver--A person 18 years of age or older who has actual care, control, and possession of a child or adolescent.~~

~~(38) Problem-solving--The use of specific steps and strategies to analyze and evaluate a problematic situation in order to determine a course of action to resolve the problematic situation.~~

(39) Provider--An entity with which the department has a contractual agreement for the provision of MH Rehabilitative Services, including a Medicaid provider.

(40) Psychologist--A person who is licensed as a psychologist by the Texas State Board of Examiners of Psychologists in accordance with Texas Occupations Code, Chapter 501.

(41) QMHP-CS or qualified mental health professional-community services--A staff member who meets the definition of a QMHP-CS set forth in Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards).

(42) RN or registered nurse--A staff member who is licensed as a registered nurse by the Texas State Board of Nurse Examiners in accordance with Texas Occupations Code, Chapter 301.

(43) Staff member--Personnel of a provider including a full-time and part-time employee, contractor, intern, and a volunteer.

(44) Therapeutic team--A group of staff members who work together in a coordinated manner for the purpose of providing comprehensive mental health services to an individual.

(45) Uniform assessment--An assessment tool adopted by the department that includes the Adult Texas Recommended Assessment Guidelines, the Texas Implementation of Medication Algorithms Scales for Adults, and the Children and Adolescent Texas Recommended Assessment Guidelines.

(46) Utilization management guidelines--Guidelines developed by the department that establish the type, amount, and duration of MH rehabilitative services for each LOC.

§419.454. General Requirements for Providers of MH Rehabilitative Services

(a) Compliance with MH community standards. In addition to complying with this subchapter, a provider must also comply with Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards) in the provision of MH rehabilitative services, as described in §412.304(a)(5) and (b)(4) of this title (relating to Responsibility for Compliance).

(b) Staff supervision and oversight. A provider must develop policies and procedures for the supervision and oversight of CSSPs and peer providers.

(c) Service provision under arrangement.

(1) A provider may choose to have any MH rehabilitative service provided by a person or entity under arrangement.

(2) A provider must ensure that if MH rehabilitative services are provided under arrangement, then the person or entity delivering the MH rehabilitative services under arrangement complies with all applicable federal and state laws, rules, and regulations, and any provider manuals and policy clarification letters promulgated by the department.

(d) Prohibitions against discrimination and retaliation.

(1) A provider may not discriminate against an individual based on race, color, national origin, religion, sex, age, disability, co-occurring disorder or political affiliation. A provider may not deny MH rehabilitative services to an individual based on sexual orientation.

(2) A provider must ensure that an individual's refusal of any service offered by the provider does not preclude the individual from accessing a needed MH rehabilitative service.

~~§419.455. Eligibility~~

~~An individual is eligible for MH rehabilitative services if:~~

~~(1) the individual:~~

~~(A) is a resident of the State of Texas;~~

~~(B) is an adult with a severe and persistent mental illness or a child or adolescent with a serious emotional disturbance; and~~

~~(C) qualifies for a LOC; and~~

~~(2) a determination that there is a medical necessity for MH rehabilitative services for the individual has been made by an LPHA who is:~~

~~(A) an employee of the department;~~

~~(B) an employee of an entity designated to make such determinations on behalf of the department; or~~

~~(C) a contractor of an entity designated to make such determinations on behalf of the department, if the LPHA is not otherwise employed by or contracting with an entity providing MH rehabilitative services under arrangement with a provider.~~

~~§419.456. Service Authorization and Treatment Plan~~

~~(a) Prerequisites to provision of services.~~

~~(1) Except as provided for crisis intervention services in subsection (b) of this section, prior to a provider providing MH rehabilitative services to an individual the provider must:~~

~~(A) obtain authorization from the department or its designee for the type(s), amount, and duration of MH rehabilitative services to be provided to the individual in accordance with the uniform assessment which is referenced in §419.468 of this title (relating to Guidelines); and the utilization management guidelines which are referenced in §419.468 of this title; and~~

~~(B) in collaboration with the individual, develop a treatment plan for the individual in accordance with §412.315(b) of this title (relating to Assessment and Treatment Planning) that also includes a list of the type(s) of MH rehabilitative services authorized in accordance with subparagraph (A) of this paragraph.~~

~~(2) A provider must develop the treatment plan required by paragraph (1)(B) of this subsection within ten days after the date it obtains authorization from the department or its designee for the type(s), amount, and duration of MH rehabilitative services.~~

~~(b) Documentation of medical necessity and treatment plan requirements for crisis intervention services.~~

~~(1) An LPHA must, within two business days after the provision of the crisis intervention services:~~

~~(A) determine whether there is a medical necessity for the crisis intervention services; and~~

~~(B) if a determination is made that there is a medical necessity for crisis intervention services, document the medical necessity for such services.~~

(2) A provider is not required to develop a treatment plan for the provision of crisis intervention services.

(c) Reauthorization of MH rehabilitative services.

(1) Prior to the expiration of the authorization period or of the depletion of the amount of services authorized, the provider must make a determination of whether the individual continues to need MH rehabilitative services.

(2) If the determination is that the individual continues to need MH rehabilitative services, the provider must:

(A) request another authorization from the department or its designee for the same type and amount of MH rehabilitative service previously authorized; or

(B) submit a request to the department or its designee, with documented clinical reasons for such request, to change the type or amount of MH rehabilitative services previously authorized if:

(i) the provider determines that the type or amount of MH rehabilitative services previously authorized is inappropriate to address the individual's needs; and

(ii) the criteria described in the utilization management guidelines for changing the type or amount of MH rehabilitative services has been met.

(d) Review of treatment plan.

(1) The provider must review the treatment plan to determine if the plan adequately addresses the needs of the individual:

(A) at least every 90 days;

(B) as clinically indicated; and

(C) at the request of the individual or the LAR or primary caregiver of a child or adolescent.

(2) At the time the treatment plan is reviewed, the provider must:

(A) solicit input from the individual and the LAR or primary caregiver of a child or adolescent regarding the services received to date and whether the services received have led to improvement and/or if there are other services to address unmet needs; and

(B) document such input.

(e) Revisions to the treatment plan. If, after review of the treatment plan the provider determines that the treatment plan does not adequately address the needs of the individual, the provider must, as appropriate:

(1) revise the content of the treatment plan; or

(2) request authorization for a change in the type or amount of the MH rehabilitative services authorized.

§419.457. Crisis Intervention Services

(a) Description. Crisis intervention services are interventions provided in response to a crisis in order to reduce symptoms of severe and persistent mental illness or serious emotional disturbance and to prevent admission of an individual to a more restrictive environment. Crisis intervention services include:

(1) an assessment of dangerousness of the individual to self or others;
(2) the coordination of emergency care services in accordance with §412.314 of this title (relating to Crisis Services);
(3) behavior skills training to assist the individual in reducing stress and managing symptoms;
(4) problem-solving;
(5) reality orientation to help the individual identify and manage their symptoms of mental illness; and
(6) providing instruction and structure to the individual in adapting to and coping with stressors.

(b) Conditions.
(1) Crisis intervention services may be provided to:
(A) an adult; or
(B) a child or adolescent.
(2) Crisis intervention services must be provided one-to-one.
(3) Crisis intervention services may be provided:
(A) on-site; or
(B) in-vivo.
(4) Crisis intervention services must be provided by a QMHP-CS.
(5) Crisis intervention services may not be provided to an individual who is currently admitted to a CSU.
(6) Crisis intervention services may be provided to an individual without first obtaining authorization from the department or its designee in accordance with §419.456 of this title (relating to Service Authorization and Treatment Plan).
(7) Crisis intervention services may be provided without a treatment plan described in §419.456(b) of this title.

§419.458. Medication Training and Support Services

(a) Description. Medication training and support services consists of instruction and guidance based on curricula promulgated by the department. The curricula include the Patient/Family Education Program Guidelines referenced in §419.468(3) of this title (relating to Guidelines), and other materials which have been formally reviewed and approved by the department, to assist an individual in:
(1) understanding the nature of an adult's severe and persistent mental illness or a child or adolescent's serious emotional disturbance;
(2) understanding the role of the individual's prescribed medications in reducing symptoms and increasing or maintaining the individual's functioning;
(3) identifying and managing the individual's symptoms and potential side effects of the individual's medication;
(4) learning the contraindications of the individual's medication;
(5) understanding the overdose precautions of the individual's medication; and
(6) learning self-administration of the individual's medication.

(b) Conditions.

(1) Medication training and support services may be provided to:

(A) an adult;

(B) an eligible child or adolescent; or

(C) the LAR or primary caregiver of an eligible child or adolescent.

(2) Medication training and support services provided to an adult may be provided:

(A) in a group; or

(B) one-to-one.

(3) Medication training and support services provided to a child or adolescent may be provided:

(A) in a group; or

(B) one-to-one, except that the LAR or primary caregiver may also be present.

(4) Medication training and support services provided to an LAR or primary caregiver may be provided:

(A) in a group; or

(B) one-to-one, except that the child or adolescent may also be present.

(5) Medication training and support services may be provided:

(A) on-site; or

(B) in-vivo.

(6) Medication training and support services provided to an adult must be provided by:

(A) a QMHP-CS;

(B) a CSSP;

(C) a peer provider; or

(D) a licensed medical personnel.

(7) Medication training and support services provided to a child, adolescent, LAR, or primary caregiver must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a licensed medical personnel.

(8) Medication training and support services may not be provided to an individual who is currently admitted to a CSU.

(c) Frequency and duration. The provision of medication training and support services must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §419.456 of this title (relating to Service Authorization and Treatment Plan).

§419.459. Psychosocial Rehabilitative Services

(a) Description. Psychosocial rehabilitative services are social, educational, vocational, behavioral, and cognitive interventions provided by members of an individual's therapeutic team that address deficits in the individual's ability to develop and maintain social relationships, occupational or educational achievement, and independent living skills that are the result of a severe and persistent mental illness in adults. Psychosocial rehabilitative services may also

~~address the impact of co-occurring disorders upon the individual's ability to reduce symptomology and increase daily functioning. Psychosocial rehabilitative services consist of the following component services:~~

~~(1) independent living services;~~

~~(2) coordination services;~~

~~(3) employment related services;~~

~~(4) housing related services;~~

~~(5) medication related services; and~~

~~(6) crisis related services.~~

~~(b) Conditions.~~

~~(1) Psychosocial rehabilitative services:~~

~~(A) may only be provided to an eligible adult;~~

~~(B) may be provided one-to-one or in a group;~~

~~(C) may be provided on-site or in-vivo;~~

~~(D) must be provided by a member of the individual's therapeutic team; and~~

~~(E) may not be provided to an individual who is currently admitted to a CSU.~~

~~(2) Psychosocial Rehabilitative Services must be provided by members of a clearly identified therapeutic team.~~

~~(3) The therapeutic team must be constituted and organized in a manner that ensures that:~~

~~(A) the team includes a sufficient number of staff to adequately address the rehabilitative needs of individuals assigned to the team;~~

~~(B) team members are appropriately credentialed to provide the full array of component services;~~

~~(C) team members have regularly scheduled team meetings either in person or by teleconference; and~~

~~(D) every member of the team is knowledgeable of the needs and of the services available to the specific individuals assigned to the team.~~

~~(4) Independent living services, coordination services, employment related services, and housing related services, as described in subsection (c)(1)-(4) of this section, must be provided by:~~

~~(A) a QMHP-CS;~~

~~(B) a CSSP; or~~

~~(C) a peer provider.~~

~~(5) Medication related services, as described in subsection (c)(5) of this section, must be provided by a licensed medical personnel.~~

~~(6) Crisis related services, as described in subsection (c)(6) of this section, must be provided by a QMHP-CS.~~

~~(7) As part of the provision of coordination services described in subsection (c)(2) of this section, a QMHP-CS must conduct the uniform assessment at intervals specified by the department to determine the type, amount, and duration of MH rehabilitative services.~~

~~(c) Components of psychosocial rehabilitative services.~~

~~(1) Independent living services assist an individual in acquiring the most immediate, fundamental functional skills needed to enable the individual to reside in the community and avoid more restrictive levels of treatment. Such services include training in symptom management, personal hygiene, nutrition, food preparation, exercise, and community integration activities.~~

~~(2) Coordination services are training activities that assist an individual in improving their ability to gain and coordinate access to necessary care and services appropriate to the needs of the individual. Coordination services include instruction and guidance in such areas as:~~

~~(A) assessment--identifying strengths and areas of need across life domains;~~

~~(B) treatment planning--prioritizing needs and establishing life and treatment goals, selecting interventions, developing and revising treatment plans;~~

~~(C) access--identifying potential service providers and support systems across all life domains (e.g., medical, social, educational, substance use), initiating contact with providers and support systems including advocacy groups;~~

~~(D) coordination--setting appointments, arranging transportation, facilitating communication between providers; and~~

~~(E) advocacy--asserting treatment needs, requesting special accommodations, evaluating provider effectiveness and compliance with the agreed upon treatment plan; requesting improvements and modifications to ensure maximum benefit from the services and supports.~~

~~(3) Employment related services provide supports and skills training that are not job-specific and focus on developing skills to reduce or manage the symptoms of mental illness that interfere with an individual's ability to make vocational choices or obtain or retain employment. Such services include:~~

~~(A) instruction in dress, grooming, socially acceptable behaviors, and etiquette necessary to obtain and retain employment;~~

~~(B) training in task focus, maintaining concentration, task completion, and planning and managing activities to achieve outcomes;~~

~~(C) instruction in obtaining appropriate clothing, arranging transportation, utilizing public transportation, accessing and utilizing available resources related to obtaining employment, and accessing employment-related programs and benefits (e.g., unemployment, workers compensation, and Social Security);~~

~~(D) interventions or supports provided on or off the job site to reduce behaviors or symptoms of mental illness that interfere with job performance or that interfere with the development of skills that would enable the individual to obtain or retain employment; and~~

~~(E) interventions designed to develop natural supports on or off the job site to compensate for skill deficits that interfere with job performance.~~

~~(4) Housing related services develop an individual's ability to manage the symptoms of the individual's mental illness that interfere with the individual's ability to obtain or maintain tenure in independent integrated housing. Such services include:~~

~~(A) skills training related to:~~

~~(i) home maintenance and cleanliness;~~

~~(ii) problem-solving with the individual's landlord and neighbors; and~~

(iii) maintaining appropriate interpersonal boundaries; and

(B) supportive contacts with the individual to reduce or manage the behaviors or symptoms related to the individual's mental illness that interfere with maintaining independent integrated housing.

(5) Medication related services provide training regarding an individual's medications in order to increase the individual's adherence to medication treatment. Such services include training in:

(A) the self-administration of the individual's medication;

(B) the importance of the individual taking the medications as prescribed;

(C) determining the effectiveness of the individual's medications; and

(D) identifying side-effects of the individual's medications.

(6) Crisis related services respond to an individual in crisis in order to reduce symptoms of severe and persistent mental illness or serious emotional disturbance and to prevent admission of the individual to a more restrictive environment.

(d) Frequency and duration. The provision of psychosocial rehabilitative services must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §419.456 of this title (relating to Service Authorization and Treatment Plan).

§419.461. Skills Training and Development Services

(a) Description.

(1) Skills training and development services is training provided to an eligible individual or the LAR or primary caregiver of an eligible child or adolescent. Such training:

(A) addresses severe and persistent mental illness or serious emotional disturbance and symptom-related problems that interfere with the individual's functioning and living, working, and learning environment;

(B) provides opportunities for the individual to acquire and improve skills needed to function as appropriately and independently as possible in the community; and

(C) facilitates the individual's community integration and increases his or her community tenure.

(2) Skills training and development services include teaching an individual the following skills:

(A) skills for managing daily responsibilities (e.g., paying bills, attending school and performing chores);

(B) communication skills (e.g., effective communication and recognizing or change problematic communication styles);

(C) pro-social skills (e.g., replacing problematic behaviors with behaviors that are socially acceptable);

(D) problem-solving skills;

(E) assertiveness skills (e.g., resisting peer pressure, replacing aggressive behaviors with assertive behaviors, and expressing one's own opinion acceptably);

(F) social skills (e.g., selection of appropriate friends and healthy activities);

~~(G) stress reduction techniques (e.g., progressive muscle relaxation, deep breathing exercises, guided imagery, and selected visualization);~~

~~(H) anger management skills (e.g., identification of antecedents to anger, calming down, stopping and thinking before acting, handling criticism, avoiding and disengaging from explosive situations);~~

~~(I) skills to manage the symptoms of mental illness and to recognize and modify unreasonable beliefs, thoughts and expectations;~~

~~(J) skills to identify and utilize community resources and informal supports;~~

~~(K) skills to identify and utilize acceptable leisure time activities (e.g., identifying pleasurable leisure time activities that will foster acceptable behavior); and~~

~~(L) independent living skills (e.g., money management, accessing and using transportation, grocery shopping, maintaining housing, maintaining a job, and decision making).~~

~~(3) Skills training and development services include training an LAR or primary caregiver to assist the child or adolescent in learning the skills described in paragraph (2) of this subsection.~~

~~(b) Conditions.~~

~~(1) Skills training and development services may be provided to:~~

~~(A) an eligible adult;~~

~~(B) an eligible child or adolescent; or~~

~~(C) the LAR or primary caregiver of a child or adolescent.~~

~~(2) Skills training and development services provided to an adult, child, adolescent, LAR or primary caregiver of a child or adolescent may be provided:~~

~~(A) one-to-one; or~~

~~(B) in a group.~~

~~(3) Skills training and development services may be provided:~~

~~(A) on-site; or~~

~~(B) in-vivo.~~

~~(4) Skills training and development services provided to a child or adolescent must be provided according to curricula approved by the department.~~

~~(5) Skills training and development services provided to an adult must be provided by:~~

~~(A) a QMHP-CS;~~

~~(B) a CSSP; or~~

~~(C) a peer provider.~~

~~(6) Skills training and development services provided to a child or adolescent, LAR or primary caregiver must be provided by:~~

~~(A) a QMHP-CS; or~~

~~(B) a CSSP.~~

~~(7) Skills training and development services may not be provided to an individual who is currently admitted to a CSU.~~

~~(c) Frequency and Duration. The provision of skills training and development services must be in accordance with the amount and duration for which the provider has obtained~~

authorization in accordance with §419.456 of this title (relating to Service Authorization and Treatment Plan).

§419.462. Day Programs for Acute Needs

(a) Description. Day programs for acute needs provide short-term, intensive treatment to an individual who requires multidisciplinary treatment in order to stabilize acute psychiatric symptoms or prevent admission to a more restrictive setting. Day programs for acute needs:

(1) are provided in a highly structured and safe environment with constant supervision;

(2) ensure an opportunity for frequent interaction between an individual and staff members;

(3) are services that are goal-oriented and focus on:

(A) reality orientation;

(B) symptom reduction and management;

(C) appropriate social behavior;

(D) improving peer interactions;

(E) improving stress tolerance; and

(F) the development of coping skills; and

(4) consist of the following component services:

(A) psychiatric nursing services;

(B) pharmacological instruction;

(C) symptom management training; and

(D) functional skills training.

(b) Conditions.

(1) Day programs for acute needs:

(A) may only be provided to eligible adults;

(B) may be provided in a setting with any number of individuals; and

(C) may be provided:

(i) on-site; or

(ii) in a short-term, crisis-resolution oriented residential treatment setting that is not:

(I) a general medical hospital;

(II) a psychiatric hospital; or

(III) an IMD.

(2) Except as provided by paragraphs (4) and (5) of this subsection, day programs for acute needs must be provided by:

(A) a QMHP-CS;

(B) a CSSP; or

(C) a peer provider.

(3) Day programs for acute needs must, at all times:

(A) have a sufficient number of staff members to ensure safety and program adequacy; and

(B) at a minimum include:

(i) one RN for every 16 individuals at the day program's location;

~~(ii) one physician to be available by phone, with a response time not to exceed 15 minutes;~~

~~(iii) two staff members who are QMHP-CSs, CSSPs, or peer providers at the day program's location;~~

~~(iv) one additional QMHP-CS who is not assigned full-time to another day program to be physically available, with a response time not to exceed 30 minutes; and~~

~~(v) additional QMHP-CSs, CSSPs, or peer providers at the day program's location sufficient to maintain a ratio of one staff member to every four individuals.~~

~~(4) Psychiatric nursing services, as described in subsection (c)(1) of this section, must be provided by an RN at the day program's location.~~

~~(5) Pharmacological instruction, as described in subsection (c)(2) of this section, must be provided by a licensed medical personnel.~~

~~(c) Components of day programs for acute needs.~~

~~(1) Psychiatric nursing services consist of:~~

~~(A) a nursing assessment;~~

~~(B) the coordination of medical activities (e.g., referrals to specialists and scheduling medical laboratory tests);~~

~~(C) the administration of medication;~~

~~(D) laboratory specimen collections and screenings (e.g., the Abnormal Involuntary Movement Scale);~~

~~(E) emergency medical interventions as ordered by a physician; and~~

~~(F) other nursing services.~~

~~(2) Pharmacological instruction is training to an individual that addresses medication issues related to the crisis precipitating the provision of day programs for acute needs. Such medication issues include:~~

~~(A) the role of the individual's medications in stabilizing acute psychiatric symptoms or preventing admission to a more restrictive setting;~~

~~(B) the identification of substances that reduce the effectiveness of the individual's medications;~~

~~(C) appropriate interventions to reduce side-effects of the medications and increase the individual's compliance with medication treatment; and~~

~~(D) the self-administration of the individual's medication.~~

~~(3) Symptom management training assists an individual in recognizing and reducing her or his symptoms and includes training the individual on:~~

~~(A) the identification of thoughts, feelings, or behaviors that indicate the onset of acute psychiatric symptoms;~~

~~(B) developing coping strategies to address the symptoms;~~

~~(C) ways to avoid symptomatic episodes;~~

~~(D) identification of external circumstances that trigger the onset of the acute psychiatric symptoms; and~~

~~(E) relapse prevention strategies;~~

~~(4) Functional skills training assists an individual in acquiring the skills needed to enable the individual to continue to reside in the community and avoid more restrictive levels of treatment and includes training the individual on:~~

(A) personal hygiene;
(B) nutrition;
(C) food preparation;
(D) money management;
(E) socially appropriate behavior; and
(F) accessing and participating in community activities.

(d) Frequency and duration. The provision of day programs for acute needs must be in accordance with the amount and duration for which the provider has obtained authorization in accordance with §419.456 of this title (relating to Service Authorization and Treatment Plan).

§419.463. Documentation Requirements

(a) General documentation. A provider must document the following for all MH rehabilitative services:
(1) the name of the individual to whom the service was provided;
(2) the type of service provided;
(3) the specific skill(s) trained on and the method used to provide the training;
(4) the date the service was provided;
(5) the begin and end time of the service;
(6) the location where the service was provided;
(7) the signature of the staff member providing the service and a notation as to whether the staff member is a QMHP-CS, a pharmacist, a CSSP, an LVN, or a peer provider; and
(8) any pertinent event or behavior relating to the individual's treatment which occurs during the provision of the service.

(b) Service documentation. In addition to the requirements described in subsection (a) of this section, a provider must document the following:
(1) for crisis intervention services:
(A) the documentation required by §412.314(c) of this title (relating to Crisis Services); and
(B) the outcome of the individual's crisis;
(2) for medication training and support services and skills training and development services, the name of the primary caregiver or LAR to whom the service was provided, if applicable;
(3) for psychosocial rehabilitative coordination services:
(A) a description of the coordination service provided;
(B) if the service involves face-to-face or telephone contact, the person with whom the contact was made; and
(C) the outcome of the service;
(4) for MH rehabilitative services other than crisis intervention services and day programs for acute needs:
(A) a summary of the activities that occurred;
(B) the modality of service provision (i.e. one-to-one or group);
(C) the treatment plan goal(s) that was the focus of the service; and

(D) the progress or lack of progress in achieving treatment plan goal(s); and

(5) for day programs for acute needs, the progress or lack of progress in stabilizing the individual's acute psychiatric symptoms.

(c) Frequency of documentation.

(1) For day programs for acute needs, the documentation required by subsections (a) and (b)(5) of this section must be made daily.

(2) For MH rehabilitative services other than day programs for acute needs, the documentation required by subsections (a) and (b)(1)-(4) of this section must be made after each face-to-face contact that occurs to provide the MH rehabilitative service.

(3) A provider must retain documentation in compliance with applicable federal and state laws, rules, and regulations

§419.464. Staff Member Training

(a) Training of staff members. A provider must provide training to a staff member to ensure competency in the provision of MH rehabilitative services. Such training must be provided in accordance with the following:

(1) A staff member who provides MH rehabilitative services or supervises the provision of MH rehabilitative services must receive training and demonstrate competency in the following areas:

(A) the requirements of this subchapter and of Chapter 412, Subchapter G of this title (relating to the Mental Health Community Services Standards);

(B) the nature of severe and persistent mental illness and serious emotional disturbances;

(C) the dignity and rights of an individual in accordance with Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services);

(D) identifying, preventing, and reporting abuse, neglect, and exploitation in accordance with Chapter 414, Subchapter L of this title (relating to Abuse, Neglect, and Exploitation in Local Authorities and Community Centers);

(E) interacting with an individual who has a special physical need such as a hearing or visual impairment;

(F) responding to an individual's language and cultural needs through knowledge of customs, beliefs, and values of various, racial, ethnic, religious, and social groups;

(G) the uniform assessment;

(H) the utilization management guidelines;

(I) developing and implementing an individualized treatment plan;

(J) identifying an individual in crisis;

(K) appropriate actions to take in managing a crisis;

(L) skills training techniques;

(M) the treatment of co-occurring psychiatric and substance use disorders as described in Chapter 411, Subchapter N of this title (relating to Standards for Services to Individuals with Co-Occurring Psychiatric and Substance Use Disorders (COPSD));

(N) the availability of resources within the local community; and

(O) strategies for effectively advocating for an individual.

~~(2) A staff member who routinely provides or supervises the provision of Medicaid MH rehabilitative services to a child or adolescent must receive training and demonstrate competency in the following areas:~~

~~(A) the aspects of a child's growth and development (including physical, emotional, cognitive, educational and social) and the treatment needs of a child and adolescent; and~~

~~(B) the department's approved skills training curricula or one that has been reviewed and approved by the department.~~

~~(3) Except for the direct clinical supervision of a peer provider, which must be provided by an LPHA, the clinical supervision of the provision of MH rehabilitative services must be provided by a QMHP-CS.~~

~~(b) Frequency. A staff member must receive the training required by subsection (a) of this section before assuming responsibilities in providing or supervising the provision of MH rehabilitative services.~~

~~(c)~~ Documentation of training. ~~A provider must document that a staff member has successfully completed the training and has demonstrated competencies in the areas described in subsection (a) of this section.~~

~~§419.465. Medicaid Reimbursement~~

~~(a) Billable and non-billable activities.~~

~~(1) A Medicaid provider may only bill for medically necessary MH rehabilitative services that are provided face-to-face to:~~

~~(A) a Medicaid-eligible individual; or~~

~~(B) the LAR or primary caregiver of a Medicaid-eligible child or adolescent.~~

~~(2) The cost of the following activities are included in the Medicaid MH rehabilitative services reimbursement rate(s) and may not be directly billed by the Medicaid provider:~~

~~(A) developing and revising the treatment plan and interventions that are appropriate to an individual's needs;~~

~~(B) staffing and team meetings to discuss the provision of MH rehabilitative services to a specific individual;~~

~~(C) monitoring and evaluating outcomes of interventions, including contacts with a person other than the individual;~~

~~(D) documenting the provision of MH rehabilitative services;~~

~~(E) a staff member traveling to and from a location to provide MH rehabilitative services;~~

~~(F) all services provided within a day program for acute needs that are delivered by a staff member, including services delivered in response to a crisis or an episode of acute psychiatric symptoms; and~~

~~(G) administering the uniform assessment to individuals who are receiving psychosocial rehabilitative services.~~

~~(b) Non-reimbursable activities.~~

~~(1) The department will not reimburse a Medicaid provider for any MH rehabilitative services provided to an individual who is:~~

~~(A) a resident of an intermediate care facility for persons with mental retardation as described in 42 CFR §440.150;~~

~~(B) a resident in an IMD;~~

~~(C) an inmate of a public institution as defined in 42 CFR §435.1009;~~

~~(D) a resident in a Medicaid-certified nursing facility unless the individual has been determined through a pre-admission screening and annual resident review assessment to be eligible for the specialized service of MH rehabilitative services;~~

~~(E) a patient in a general medical hospital; or~~

~~(F) not Medicaid-eligible.~~

~~(2) With the exception of crisis intervention services and psychosocial rehabilitative services that are being provided in a crisis situation, the department will not reimburse a Medicaid provider for any combination of MH rehabilitative services delivered in excess of 8 hours per individual per day. In addition, the department will not reimburse a Medicaid provider for more than:~~

~~(A) two hours per individual per day of medication training and support services;~~

~~(B) four hours per individual per day of psychosocial rehabilitative services when the psychosocial rehabilitative services are being provided in non-crisis situations;~~

~~(C) four hours per individual per day of skills training and development services;~~

~~(D) six hours per individual per day of day programs for acute needs; and~~

~~(E) crisis services should be provided until resolution of the crisis.~~

~~(3) The department will not reimburse a Medicaid provider for:~~

~~(A) a MH rehabilitative service that is not included in the individual's treatment plan (except for crisis intervention services documented in accordance with §419.456(b) of this title (relating to Service Authorization and Treatment Plan) and psychosocial rehabilitative services provided in a crisis situation;~~

~~(B) a MH rehabilitative service that is not authorized in accordance with §419.456 of this title (except for crisis intervention services documented in accordance with §419.456(b) of this title);~~

~~(C) a MH rehabilitative service provided in excess of the amount authorized in accordance with §419.456(a)(1) of this title;~~

~~(D) a MH rehabilitative service provided outside of the duration authorized in accordance with §419.456(b) of this title;~~

~~(E) a psychosocial rehabilitative service provided to an individual receiving MH case management services in accordance with Chapter 412, Subchapter I of this title (relating to Mental Health Case Management Services);~~

~~(F) a MH rehabilitative service that is not documented in accordance with §419.462 of this title (relating to Documentation Requirements);~~

~~(G) a MH rehabilitative service provided to an individual who does not meet the eligibility criteria as described in §419.455 of this title (relating to Eligibility);~~

(H) a MH rehabilitative service provided to an individual who does not have a current uniform assessment (except for crisis intervention services documented in accordance with §419.456(b) of this title);

(I) a MH rehabilitative service provided to an individual who is not present, awake, and participating during such service; and

(J) any other activity or service identified as non-reimbursable in the department's MH Rehabilitative Services Billing Guidelines, referenced in §419.468 of this title (relating to Guidelines).

(c) Services provided same time and same day.

(1) If a Medicaid provider provides more than one MH rehabilitative service to an individual at the same time and on the same day, the Medicaid provider may bill for only one of the services provided.

(2) A Medicaid provider may bill for a MH rehabilitative service provided to a child or adolescent's LAR or primary caregiver at the same time and on the same day the child or adolescent is receiving another MH rehabilitative service only if the staff member providing the service to the LAR or primary caregiver is different from the staff member providing the service to the child or adolescent.

(d) Services provided before a fair hearing. If the provision of a MH rehabilitative service is continued prior to a fair hearing decision being rendered, as required by Texas Administrative Code, Title 1, §357.7 (relating to Maintaining Benefits or Services), the Medicaid provider may bill for such service.

§419.466. Medicaid Provider Participation Requirements

(a) Qualifications. To become a Medicaid provider of MH rehabilitative services, an entity must:

(1) be established as a community mental health center in accordance with Texas Health and Safety Code, §534.001, that:

(A) provides services comparable to MH rehabilitative services and the services described in the Texas Health and Safety Code, §534.053(a)(1)-(7);

(B) is in compliance with Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards);

(C) conducts criminal history clearances on all contractors delivering MH rehabilitative services and all employees and applicants of the Medicaid provider to whom an offer of employment is made and ensures that individuals do not come in contact with and are not provided services by an employee or contractor of the Medicaid provider (or employee or contractor of contractors delivering MH rehabilitative services under a contract with the Medicaid provider) who has a conviction for any of the criminal offenses listed in §414.504(g) of this title (relating to Pre-employment and Pre-assignment Clearance) or for any criminal offense that the Medicaid provider has determined to be a contraindication to employment; and

(D) have a Medicaid provider agreement with the department to provide MH rehabilitative services; or

(2) be a corporation incorporated or registered to do business in the State of Texas that:

(A) has completed an application evidencing that it:

(i) provides services comparable to MH rehabilitative services and the services described in the Texas Health and Safety Code, §534.053(a)(1)-(7);

(ii) is in compliance with Chapter 412, Subchapter G of this title;

(iii) has demonstrated a history of providing, as well as the capacity to continue to provide, services to individuals required to submit to mental health treatment:

(I) under the Texas Code of Criminal Procedure, Article 17.032 (relating to Release on Personal Bond of Certain Mentally Ill Defendants), or Article 42.12 §11(d) (relating to Community Supervision); and

(II) under the Texas Health and Safety Code, Chapter 573 (relating to Emergency Detention) and Chapter 574 (relating to Court Ordered Mental Health Services); and

(iv) conducts criminal history clearances on all contractors delivering MH rehabilitative services and all employees and applicants of the corporation to whom an offer of employment is made and ensures that individuals do not come in contact with and are not provided services by an employee or contractor of the corporation (or employee or contractor of contractors delivering MH rehabilitative services under a contract with the corporation) who has a conviction for any of the criminal offenses listed in §414.504(g) of this title or for any criminal offense that the corporation has determined to be a contraindication to employment;

(B) has had its application information confirmed by an on-site visit by the department;

(C) has had its application approved by the department; and

(D) has signed a Medicaid provider agreement with the department to provide MH rehabilitative services.

(b) Compliance. A Medicaid provider must:

(1) comply with all applicable federal and state laws, rules, and regulations, and any Medicaid provider manuals and policy clarification letters promulgated by the department;

(2) document and bill for reimbursement of MH rehabilitative services in the manner and format prescribed by the department;

(3) allow the department access to all individuals and individuals' records;

(4) maintain capacity to provide those services that are described in Texas Health and Safety Code, §534.053(a)(1)-(7); and

(5) maintain capacity to provide services to individuals required to submit to mental health treatment:

(A) under the Texas Code of Criminal Procedure, Article 17.032 (relating to Release on Personal Bond of Certain Mentally Ill Defendants), or Article 42.12 §11(d) (relating to Community Supervision); and

(B) under the Texas Health and Safety Code, Chapter 573 (relating to Emergency Detention) and Chapter 574 (relating to Court Ordered Mental Health Services).

§419.467. Fair Hearings

(a) Right to request a fair hearing. Any Medicaid-eligible individual whose request for eligibility for MH rehabilitative services is denied or is not acted upon with reasonable promptness, or whose MH rehabilitative services have been terminated, suspended, or reduced by the department is entitled to a fair hearing in accordance with Texas Administrative Code, Title 1, Chapter 357 (relating to Medical Fair Hearings).

(b) Notice. The Medicaid provider must notify the department or its designee if the provider has reason to believe that an individual's MH rehabilitative services should be reduced or terminated.

§419.468. Guidelines

The following guidelines are referenced in this subchapter. For information about obtaining copies of the guidelines contact the Department of State Health Services, Community Mental Health and Substance Abuse Services, Mail Code 2018, P.O. Box 12668, Austin, TX 78711-2668.

(1) Uniform assessment guidelines, which include:

(A) Adult Texas Recommended Assessment Guidelines;

(B) Texas Implementation of Medication Algorithms Scales for Adults; and

(C) Child and Adolescent Texas Recommended Authorization Guidelines.

(2) Utilization management guidelines, which include:

(A) Adult Utilization Management Guidelines; and

(B) Child and Adolescent Utilization Management Guidelines.

(3) Patient/Family Education Program guidelines, which include:

(A) Adult Patient/Family Education Program; and

(B) Child and Adolescent-Patient/Family Education Program.

(4) Medicaid MH Rehabilitative Services Billing Guidelines.

§419.469. References

The following laws and rules are referenced in this subchapter:

(1) Texas Administrative Code, Title 1, Chapter 357 (relating to Medical Fair Hearings);

(2) Texas Administrative Code, Title 1, §357.7 (relating to Maintaining Benefits or Services);

(3) Texas Health and Safety Code, Chapters 573, 574, and 577; and §§534.001 and 534.053(a)(1)-(7);

(4) Texas Code of Criminal Procedure, Article 17.032 and Article 42.12, §11(d);

(5) Texas Government Code, §662.021;

(6) Texas Occupations Code, Chapters 155, 204, 301, 302, 501, 502, 503, 505, and 558;

(7) 42 CFR, §435.1009 and §440.150;

(8) Chapter 134 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units);

~~(9) Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services);~~
~~(10) Chapter 411, Subchapter N of this title (relating to Standards for Services to Individuals with Co-Occurring Psychiatric and Substance Use Disorders (COPSD));~~
~~(11) Chapter 412, Subchapter G of this title (relating to Mental Health Community Services Standards);~~
~~(12) Section 412.314 of this title (relating to Crisis Services);~~
~~(13) Section 412.315 of this title (relating to Assessment and Treatment Planning);~~
~~(14) Chapter 412, Subchapter I of this title (relating to Mental Health Case Management Services);~~
~~(15) Chapter 414, Subchapter L of this title (relating to Abuse, Neglect, and Exploitation in Local Authorities and Community Centers); and~~
~~(16) Section 414.504(g) of this title (relating to Pre-employment and Pre-assignment Clearance).~~

~~§419.470. Distribution~~

~~(a) This subchapter shall be distributed to:~~
~~(1) members of the State Health Services Council;~~
~~(2) executive, management, and program staff of the department;~~
~~(3) chief executive officers of all providers of MH rehabilitative services; and~~
~~(4) advocates and advocacy organizations.~~

~~(b) The chief executive officer of each provider must make this subchapter readily available to all staff members who deliver these services and provide a copy of this subchapter to all persons and entities delivering MH rehabilitative services under arrangement.~~